A Problem of Merciful Death, p. 856. Signature "*per pro*," p. 856.


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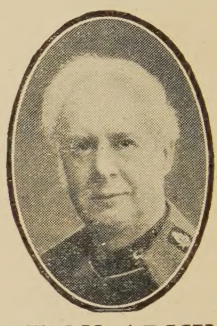

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# The Solicitors' Journal and Weekly Reporter.

(ESTABLISHED 1857.)

*** Notices to Subscribers and Contributors will be found on page iv.

VOL. LXXI. Saturday, November 5, 1927. No. 45

**Current Topics:** Work of the Autumn Session—Betting on Greyhounds—The Totalisator — Miscellaneous Gaming — Contributory Negligence in Criminal Offences—Schoolmaster's Right to Correct Pupil—"Streets" in the Public Health Act, 1875, s. 150—Conspiracy to Defeat Justice—Awarding of Costs against Poor Persons—What is "Port"?—Vexatious Actions—Trial Marriages—Amount of Maintenance under Affiliation Order .. .. .. 853

**A Problem of Merciful Death** .. 856

**Signature "*per pro*"** .. .. 856

**A Conveyancer's Diary** .. .. 857

**Landlord and Tenant Notebook** .. 859

**Correspondence** .. .. .. .. 859

**Points in Practice** .. .. .. 860

**Reviews** .. .. .. .. .. 863

**Books Received** .. .. .. 863

**Reports of Cases** .. .. .. 864

**Societies** .. .. .. .. .. 866

**Rules and Orders** .. .. .. 867

**Legal Notes and News** .. .. 868

**Court Papers** .. .. .. .. 868

**Stock Exchange Prices of Certain Trustee Securities** .. .. .. 868

## Current Topics.

### Work of the Autumn Session.

THE VOLUME of work awaiting Parliament on its re-assembling for the Autumn session promises to be a fairly heavy one, and, as there are not more than about thirty working days left till the close of the session, several Bills appear destined not to reach the Statute Book this year. The most important of these is the Companies Bill, which is intended to introduce important amendments in company law. This Bill will not be proceeded with, but will be re-introduced next year. It may confidently be anticipated therefore that the Consolidation Act, consolidating the company law, which it was intended to pass next year, will accordingly be postponed to the year following. It appears to be the intention of the Government, however, to pass the Landlord and Tenant Bill and the Cinematograph Films Bill, both of which have now reached the report stage, and also the Unemployment Insurance Bill, though whether the latter can be speeded through all the necessary stages admits of some doubt, since it has not yet had even a Second Reading. Among other Government Bills awaiting further consideration are the Aliens Restriction Bill, the Audit (Local Authorities) Bill, the Judicial Committee Bill, the Medical and Dentists Act Amendment Bill, the Ouse Drainage Bill, and certain Scottish Bills, as, for example, the Police Districts Bill, the Poor Law (Emergency Provisions) Bill, and the Sheriff Courts and Legal Officers Bill. Among members' Bills, the Mental Deficiency and the Nursing Home (Registration) Bills are likely among others to be passed, as they have the support of the Government. Up to the present only twenty-six Acts have been passed, and it does not appear that the legislative output of this session will be as great as it has been in previous years.

### Betting on Greyhounds.

THE DECISION in the case at the West London Police-court was given on the 28th ult. As we forecast, the whole point in the case was whether there was or was not such localisation of the bookmakers' activities as to make their pitches "places" within the meaning of the Betting Act, 1853. The magistrate held that the defendant bookmaker, by attending night after night at the same post with his name on it, and conducting his business there, clearly localised his betting in such a way as to infringe the law. He also convicted the Greyhound Racing Association Limited of permitting a place to be used for betting. The defendant company got itself into trouble really through trying to regulate the betting in an orderly way, and by avoiding such regulation they can avoid prosecution under this particular provision. It is a curious comment on the condition of our law as to gaming that this should be so. There are dark warnings that their next proceedings will be watched very closely and that whatever they do they will be in danger, but it may be that these warnings need not be taken too seriously. The *Kempton Park Case* seems to be a shield for betting carried on in the manner of the horse racecourse. There is little doubt that for the great mass of the frequenters of the White City the betting is the principal attraction. One has only to think for a moment what would happen to the actual racing if the betting were stopped. It was said, without contradiction, at the police-court, that of the two hours or so during which the public was present on one occasion, the period occupied in the whole of the six races amounted to $3\frac{3}{4}$ minutes. The attempts to take out insurance policies against a statutory prohibition of betting on the greyhound racecourses show clearly how the matter stands. The committee of Lloyd's are frowning on this form of insurance, and it is thought that most members will follow the lead given by the committee, though some insurances are stated to have been underwritten at 3 per cent. and others at $2\frac{1}{2}$ per cent.

### The Totalisator.

THE JOCKEY CLUB'S reported decision to accept the Special Committee's recommendation approving of the totalisator involves consideration of the same point of localisation of betting. If these large machines be set up with their necessary attendant staff, the spots where they are fixed will clearly be "places," and to get over this difficulty legislation will be necessary. A private member's Bill has already been drafted and circulated. But it can have no prospect of success without Government approval, and if that approval is given, the resulting measure will no doubt be officially introduced. It may have a stormy passage. The regulation of betting to many minds means the same as the approval of betting. It is an ancient controversy which, from the political point of view, with a general election not so very far ahead, it may be deemed unwise to re-open.

### Miscellaneous Gaming.

THE THIRST of the public for gaming, checked at every turn by the law, finds vent in innumerable small lotteries more or less disguised, and in various gaming devices in side-shows at places like the Ramsgate "Pleasureland," where a series of prosecutions have resulted in the trial by jury (an unusual proceeding in such cases) at the Sandwich Quarter Sessions

of a number of defendants. The RECORDER, in his charge to the grand jury, quoted the LORD CHIEF JUSTICE, that "the law is perfectly clear. It depends only upon the vigilance and diligence of the police to put an end to what can only be regarded as a pest—and a most mischievous pest—as it operates on the minds of young persons and corrupts them in their youth."

### Contributory Negligence in Criminal Offences.

IT IS WELL that people at large should have the reminder given by Mr. Justice TALBOT, in *R.* v. *David Dombrowski*, at the Central Criminal Court, on the 27th ult. DOMBROWSKI was indicted for the manslaughter of a woman he slew through his wanton driving of a motor car. The jury found the accused guilty, but added: "The jury consider the car was not under proper control for public safety, and that there was contributory negligence on the part of the party crossing the road." Counsel for the defence rightly sought to derive advantage from this form of verdict, but the judge observed that the additional words were immaterial. He explained to the jury that contributory negligence, though it might have a bearing on the sentence, was not material to the issue of guilty or not guilty. Whereupon the jury found a clear-cut verdict of guilty and the judge inflicted a sentence of eighteen months' imprisonment.

### Schoolmaster's Right to Correct Pupil.

IT IS laid down in a work of high authority, to wit, the book of Proverbs, that "he that spareth his rod hateth his son"—frequently misquoted as "he that spareth the rod spoileth the child"—and the aphorism in either form appears to be equally good in law as in morals, provided that the application of the rod is performed with moderation and with due regard to all the circumstances. Some years ago, DARLING, J., laid it down that the duty of a schoolmaster in relation to his pupils was that of a careful father; and we most of us know, some probably by dire experience, that the careful father may interpret the right of correction with which he is endowed somewhat liberally. In the view of the courts the like liberal view has been taken of the right of a schoolmaster—who is *pro tempore* the delegate of the parental authority—to inflict corporal punishment, provided, of course, that it is reasonable in view of the offence and the physical condition of the pupil. A recent case in Saskatchewan—*Rex* v. *Metcalfe*, 1927, 3 W.W.R. 194—shows that the Canadian courts take the same view as our own in this matter. It was there held that a schoolmaster has the right to inflict corporal punishment on a pupil for violating the rules of the school provided the punishment is not excessive, the instrument with which it is inflicted is a proper one for the purpose, and there is no malice or ill-will on the part of the teacher; and that punishment so inflicted which caused temporary pain and discolouration of the flesh for a few days was not excessive. There the punishment was inflicted on that part of the refractory pupil's anatomy "which seems to have been designed by nature for the receipt of corporal punishment." As was said, following what was laid down by COLLINS, J., in *Cleary* v. *Booth*, 1893, 1 Q.B. 465, parents who send their children to school "contemplate such an exercise of authority by the schoolmaster" as is necessary for the welfare and education of the child and the preservation of discipline in the school.

### "Streets" in the Public Health Act, 1875, s. 150.

ONE OF our contemporaries in "noting" Mr. MACMORRAN'S articles on "Private Street Works," which first appeared in the columns of the SOLICITORS' JOURNAL and are now republished in book form by The Solicitors' Law Stationery Society, Limited, observes that "the statement that the word 'street,' as used in s. 150, 'clearly extends to places which are not highways at all, but are in all respects private,' is much too wide." This observation, we would point out, is based upon a misconception of the law on the subject and does the learned writer of the articles palpable injustice. Mr. MACMORRAN'S statement is borne out by the following *dicta* of no less a person than JESSEL, M.R., in *Taylor* v. *Corporation of Oldham*, 1876, 4 Ch. D. 395, at p. 407: "I must also take into consideration that the Act (the Public Health Act, 1875) expressly calls places 'streets' whether they are public property or private property, and whether the public have any rights over them or have no rights over them. The word 'streets' in this Act of Parliament clearly extends to places which are in all respects private, and over which the public have no right."

### Conspiracy to Defeat Justice.

THE CASE of *R.* v. *Milton and Others*, at the Central Criminal Court on the 21st October, offers a useful reminder that it is the legal duty of all citizens to bring felons to justice, and not to concern themselves merely with their own property rights. MILTON bought a vanload of waste rubber stolen from the two other defendants, not knowing it was stolen. Later he agreed to restore it to the owners if no action were taken against him. This agreement constituted the criminal conspiracy to obstruct the course of justice. All three men concerned were of good character. They pleaded guilty, but in mitigation urged their ignorance of the law. They were bound over under the Probation Act. It is curious to reflect how almost obsolete the similar offence of misprision of felony has become. The importance of requiring all persons to assist the course of justice has naturally lessened with the evolution of effective police forces, but it must never be forgotten that their effectiveness rests, in the last analysis, on the general goodwill of the community, and the readiness of all citizens to assist in the maintenance of order and the suppression of crime.

### Awarding of Costs against Poor Persons.

A POINT of practice of some importance was raised before the Divisional Court in *Drummond* v. *Hervey*, *Times*, 3rd inst., the point in question being whether the court had jurisdiction to order an appellant, who had been permitted to prosecute an appeal from a county court as a poor person, to pay the costs incurred by the successful respondent. In a considered judgment the court were of opinion that a person, notwithstanding that he was allowed by the Poor Persons' Committee after due consideration of his case to prosecute an appeal as a poor person, might nevertheless be ordered by the court to pay the costs of a successful respondent, if the appeal was, in the opinion of the court, vexatious and frivolous and an abuse of the process of the court. The court, however, pointed out that undue optimism sometimes existed in litigants, and took the view that when an appellant *bona fide* laboured under such a misconception as to the merits of his case and was not guilty of any misconduct, an order for costs ought not to be made against him. This ruling should therefore be carefully noted, since it appears to be one which will apply not only to appeals but to every form of legal proceeding taken by a poor person.

### What is "Port"?

A RECENT CASE (1st November) at the Mansion House, before Alderman Sir LOUIS NEWTON, again brought into the limelight the interesting question of when port wine is correctly so described. W. H. CHAPLIN & Co. were prosecuted for having labelled certain of their produce, namely "Port Tawnidor," with a false trade description, contrary to the provisions of the Merchandise Marks Act, 1887. They pleaded guilty, there being no suggestion of fraud, and were fined £5, with nominal costs of £10 10s. The somewhat indiscriminate application of the name "port" to a variety of red wines prior to 1914

resulted in the Anglo-Portuguese Commercial Treaty Act of that date. Section 1 of an Act making provision for the Treaty provides that the description "port" applied to any wine or liquor other than wine the produce of Portugal and the Island of Madeira shall be deemed to be a false trade description within the meaning of the Merchandise Marks Act, 1887. In the cases of *Hopper* v. *Riddle and Co.*, 1906, 95 L.T. 424, and *Holmes* v. *Pipers, Limited*, 1914, 1 K.B. 57, wine in both cases was labelled "Tarragona Port," and no question appears to have been raised as to the accuracy of the description "port." Both these cases, however, appeared before the Treaty Act was ratified. Since the Treaty date the case of *Sandeman* v. *Gold*, 1924, 68 Sol. J., 140; 1924, 1 K.B. 107, has clearly limited the application of the word "port," and in that case, practically identical with the present one, a Divisional Court held that a bottle of red Spanish wine labelled "Tarragona Port" was falsely described as port. The law on the subject is thus clearly laid down, and since *ignorantia juris non excusat*, future offenders will probably be dealt with on a basis other than one of a technical offence.

## Vexatious Actions.

On the hearing of an action brought in person by one Robert Loftus, a ship's donkeyman, against a limited company to recover £152,000 under the Workmen's Compensation Acts (£600 being the absolute maximum recoverable under the Acts, even in case of death), it appeared that he had brought many proceedings in respect of the same subject-matter. The judge observed that he had dismissed previous actions with costs, but it was of no avail because the plaintiff had no money. The solicitor for the respondents suggested that he might be restrained from bringing so many futile proceedings against persons who had to spend money to defend themselves, but the judge replied that he had no power in this behalf. The ordinary result of a vexatious action brought by a solvent person is that he is unsuccessful, and, moreover, has to pay the costs of his own and the defendant's lawyers. Even the litigant with a grievance soon tires of this. Towards the end of the last century, however, one Alexander Chaffers brought a series of actions against various public officials, such as the Speaker, the Lord Chancellor, the Archbishop of Canterbury, etc. His record, as disclosed in *Ex parte the A.-G., re Chaffers*, 1897, 76 L.T. 351, was that out of forty-eight actions brought by him, forty-seven were dismissed with costs, which had not been paid, the other, a claim against the Treasury for £1, being satisfied by payment as the lesser evil. His activities undoubtedly caused Parliament to pass the Vexatious Actions Act, 1896, giving power to a court, on the application of the Attorney-General, to restrain any person who has habitually brought vexatious and unreasonable legal proceedings from doing so without leave of the High Court. This Act, and the above proceedings under it, effectually prevented Chaffers from further abuse of the process of the court. The late Mrs. Georgina Weldon, under the shelter of a restrained income, had divested herself in a similar way at the expense of persons who came under her disfavour, until s. 2 of the Married Women's Property Act, 1893, gave a judge power to "lift" the restraint for payment of the costs of a successful defendant. This was one of the very few set-backs on the feminine road to the triumphant legal altitude of protection and privilege now attained by women. The Vexatious Actions Act of 1896 has been repealed and re-enacted by s. 51 of the Judicature Act, 1925, and remains a useful little piece of legislation. Its policy is very fully discussed in *Re Boaler*, 1915, 1 K.B. 21, where it was held that it did not apply to criminal proceedings.

## Trial Marriages.

We observe that Judge Burnell, the presiding judge of Los Angeles Superior Court, has advocated the recognition by the State of marriage for a term of five years, with the option of renewal, and the learned judge's reason for this alteration of the law is that married couples should have the right to their freedom without having to buy it at the expense of perjury in the Divorce Courts. The suggestion as to the legalisation of trial marriage is by no means a new one, and when such a principle is seriously championed by reformers, lawyers and judges, it may be regarded as worthy of careful consideration. It is clear, however, that such a principle could never be satisfactorily adopted in practice. Such a principle pays undue regard to the rights and privileges of the parties to the marriage, but does not sufficiently consider the interests of the State or of other persons. After all, the civilised State must deny unlimited freedom to the subject. As in the case of the rights of property and other rights, the subject of a State must be restricted in his enjoyment thereof, so also must he be restricted with regard to the rights flowing from the status of marriage. In particular, the recognition of trial marriages must adversely affect, not only the State, but other persons as well, i.e., the issue of the marriage. Speaking as far as the marriage laws of this country are concerned, we feel, however, that further changes might usefully be made, so as to entitle persons to obtain a divorce on other grounds than those already existing, as, for example, insanity, conviction of a serious crime, followed by imprisonment for a substantial term of years, and extreme cruelty. It is in this direction only that changes in the law are likely to meet with any practical success.

## Amount of Maintenance under Affiliation Order.

A curious point of difference between Scots and English law is revealed by the recent decision of the Court of Session in *Fraser* v. *Campbell*, 1927, S.C. 589, where the question was as to the amount of maintenance that could be awarded against the putative father. in respect of an illegitimate child. This subject, so far as England is concerned, is regulated by a series of statutes which have enlarged the power of justices as to the amount they can award for the maintenance and education of the child. By s. 4 of the Bastardy Laws Amendment Act, 1872, justices were empowered to order payment of a weekly sum not exceeding five shillings; by the Affiliation Orders (Increase Maximum Payment) Act, 1918, the amount that could be awarded was increased to ten shillings a week; and by s. 2 of the Bastardy Act, 1923, the order against the putative father may be for a weekly sum not exceeding twenty shillings. The position in Scotland is much less favourable to the mother and child, for there, where the matter is not regulated by statute, the maximum amount of aliment that can be awarded is four shillings and sixpence per week. So it has been held in the case cited. In that case the mother, in the proceedings she instituted claiming aliment for her illegitimate child, alleged that the defendant was in a good social position and was possessed of considerable means, and, therefore, she maintained that the amount payable by him for the maintenance of the child should be proportionate to his wealth. This contention the Court, with some regret, refused to entertain in view mainly of a line of previous decisions. Scotland has always taken what looks like a lax view of the father's obligations even in the case of a legitimate child. It was indeed held in one case that a lawful child is entitled to no more aliment than "support beyond want," whatever be the father's rank, and although it is doubtful whether this view would be applied in all its austerity at the present day, the principle it embodies certainly has been applied in the case of an illegitimate child. Four shillings and sixpence a week as the father's contribution does not err on the side of excess, and we venture to think that the more generous attitude towards the unfortunate child, who in law is *filius nullius*, shown by recent legislation applicable in England, might well be extended to Scotland. Such a change, however, can only come through the Legislature.

# A Problem of Merciful Death.

The case of Albert Edward Davies, tried before Mr. Justice Branson upon a charge of murdering his infant daughter by accelerating her death in order to end her hopeless suffering has attracted much attention, and has been commented on in a note under the above heading in the last issue of The Solicitors' Journal. The legal question raised in *Davies' Case* was plain enough, and what the result would have been if the case had been tried before Mr. Justice Hawkins, at the period (1880) when *Reg.* v. *Paine* was decided, it is unnecessary to speculate. Public opinion has moved a long way since that time; and in *Davies' Case* a generous view was taken by both judge and jury. The case has led to a discussion whether the law which makes it a crime—whatever the circumstances may be—to put an end to the agony of a human being by accelerating death, should be in any degree modified. Suggestions have been made that where a person, suffering from an incurable and painful malady, strongly desires life to be ended, medical men (subject to stringent precautions) should be allowed, at the request of the sufferer, to give the required drug. The question would appear to deserve consideration, but is hardly one for the lawyer.

Closely related to the law on this question is that concerning suicide—a subject upon which public opinion has moved very far from that accepted in earlier generations. It is still law, however, that suicide is murder—the murder of oneself—and an attempt to commit suicide is equivalent to an attempt to commit murder. As the law stood, prior to 1823, the body of a suicide was buried at the cross-roads, with a stake driven through it; the idea being that, unless thus dealt with, the suicide would rise as a vampire and trouble the neighbourhood. This practice was altered by an Act passed in 1823; under which, however, the burial had to take place between nine and twelve at night, and to be unaccompanied by the rites of the Christian religion. The necessity for the burial to be at night was removed by an Act passed in 1882.

Blackstone, writing in 1868, expresses the views which then prevailed:—

> "The law of England wisely and religiously considers that no man hath a power to destroy life, but by commission from God, the author of it; and as the suicide is guilty of a double offence: one spiritual, in invading the prerogative of the Almighty, and rushing into His presence uncalled for; the other temporal, against the King, who hath an interest in the preservation of all his subjects; the law has therefore ranked this among the highest crimes."

Blackstone proceeds to ask what punishment can laws inflict on one who has withdrawn himself from their reach? "They can only act upon what he has left behind—his reputation and fortune; on the former by an ignominious burial in the high-way, with a stake driven through his body; on the latter by a forfeiture of all his goods and chattels to the King." It was not until 1871 that forfeiture for treason and felony was abolished.

An attempted suicide being equivalent to attempted murder, it follows that an unhappy being who tries to commit suicide (and perhaps injures himself in the attempt) is liable in law to very severe punishment—which, however, in modern times, is never inflicted. The public conscience being out of sympathy with the law on this subject, it is the practice of a coroner's jury, almost invariably, to bring in a verdict of suicide "during temporary insanity."

The most serious case, however, calling for consideration and, possibly, revision of the law, relates to what is called the "suicide pact." Instances have occurred in the last few years where two people have agreed together to commit suicide, and one has succeeded and the other failed in the attempt, and, as a consequence, the survivor has been tried or murder. The court has been placed in the humiliating position of being compelled to pronounce the sentence of death, which it is well known will not be carried into execution.

Upon this subject, the late Sir James FitzJames Stephen, in his work, "A General View of the Criminal Law of England," published in 1863, has some very interesting observations:—

> "One point in which the law of murder requires relaxation is the case of suicide. Suicide is by law murder, and a person who is present aiding and abetting in the act is a principal in murder, and might be convicted and executed for the offence. Thus, in the not very uncommon case of a joint attempt at suicide, if one escapes and the other dies, the survivor is guilty of murder. That this is a hard case is apparent from the fact that in practice no one would be executed for such an offence. . . . Suicide may be wicked, and it is injurious to society, but it is so *in a much less degree than murder. The injury to the person killed can neither be estimated nor taken into account. The injury to survivors is generally small. It is a crime which produces no alarm and which cannot be repeated.* It would be better to cease to regard it as a crime, and to provide that anyone who attempted to kill himself or assisted another to do so should be liable to secondary punishment. . . . Juries would be delivered from a conflict between duty and pity, and coroners' juries would be under no temptation to commit the amiable perjury of finding that the deceased killed himself in a fit of temporary insanity." (The italics are mine.)

In the same connexion, the view taken by the later Roman law may be of interest:—

> "*Si quis impatientiâ doloris, aut tædio vitæ, aut morbo, aut furore, aut pudore, mori maluit, non animadvertatur in eum.*" (Digest, Book 49, s. 16 (6.))

If, upon the questions referred to in this article, the letter of the law and its execution—under the restraints imposed by modern notions of humanity and of the due proportion of things—differ so widely, the time would seem to have arrived for making modifications in the substantive law, so that its terms may be in accord with their enforcement.

H.

# Signature "*per pro.*"

The omission of the words "*per pro.*" rarely operates to the advantage of a person signing documents during the liquidation of a company. An instance of the result proving beneficial occurred in the recent case of *Kettle* v. *Dunster and Wakefield*, 1927, 43 T.L.R. 770. The following were the facts: The debenture-holders of Ford Paper Works (1923) Limited appointed Kettle as receiver on 1st March, 1926. At that date goods ordered were lying at the paper works undelivered. Dunster and Wakefield therefore wrote asking the receiver to deliver these goods "subject to your not being involved in litigation now pending." The receiver's reply of 4th March, 1926, agreeing to do so, contained these words: "It must be clearly understood that I am in no way accepting any liability or responsibility whatever in respect of the orders themselves." The goods were delivered in April, and invoices were sent together with bills, which were duly accepted. The names of the drawer had been left blank, but the bills were later signed "R. Kettle, Receiver, Ford Paper Works (1923) Ltd." These bills were afterwards dishonoured and were sued upon by the receiver. The defendants contended (1) that the receiver could not sue personally, as the bills on the face of them were drawn on behalf of the company; (2) that there was a valid set-off in respect of their claim against the company for breach of warranty.

The relevant provision on point (1) is the Bills of Exchange Act, 1882, s. 26 (1), which enacts that "Where a person signs a bill as drawer, endorser or acceptor, and adds words to his signature indicating that he signs for or on behalf of a principal or in a representative character, he is not personally liable thereon;

but the mere addition to his signature of words describing him as an agent, or as filling a representative character, does not exempt him from personal liability."

Mr. Justice HORRIDGE decided on point (1) that the above signature imported mere words of description, that the bills did not purport to be made on behalf of the company, and that the receiver was liable to be sued and was able to sue upon the bills. This was in spite of the receiver's letter of 4th March, 1926, and also of the fact that in the witness box he had said he would have been surprised to be told he was liable. The learned judge refused to consider these matters (and the fact that the company had supplied the goods) as surrounding circumstances which he was entitled to take into account. The inference as to the meaning of the documents had to be drawn from the documents themselves, and from facts which really were surrounding circumstances, as opposed to mere evidence of the intention of the parties. The learned judge decided on point (2) that the defendants' right of set-off against the company was barred by their agreement of 4th March, 1926, with the receiver. The bills upon which he sued were held by the receiver as agent for the company, and as against him the defendants would have been entitled in the ordinary course to set off their cross-claims against the company. The exchange of letters of 4th March, 1926, constituted an agreement not to do so, and the receiver had given consideration by causing the company to deliver the goods. Judgment was therefore given for the receiver for the amount claimed.

Surrounding circumstances as an aid to the construction of a written document had been relied upon in *Elliott* v. *Bax-Ironside and Mason*, 1925, 2 K.B. 301. ELLIOTT had agreed to erect show stands at the White City for Fashions Fair Exhibitions Limited, whose total capital was £400. The price of the show stands was £2,750, to be paid in part by two bills of £1,000. These were duly accepted by the defendants as directors of the company, and were sent to ELLIOTT by MASON, who wrote "I enclose two drafts . . . duly endorsed by two directors of the company as requested by you." The acceptance was written, viz.: "Accepted payable at the Westminster Bank Ltd., Piccadilly Branch. H.O. Bax-Ironside, Ronald A. Mason, directors. Fashions Fair Exhibitions Ltd." The endorsement showed the name of the company by a rubber stamp, and ran: "Harold H. Elliott. Fashions Fair Exhibitions Ltd. H. O. Bax-Ironside, Ronald A. Mason, directors." In an action on one of the bills, the defence was that the endorsement was by the company and not by the directors personally. Mr. Justice GREER decided that if the endorsement were that of the company it would have no effect at all in fulfilling the purpose for which it had been asked for by ELLIOTT. The latter, in order to discount the bills with the bank, had required a better security than that provided by the acceptance of the company only, so had asked the directors also to endorse the bills. The learned judge therefore gave judgment against the directors.

The relevant provision was the Bills of Exchange Act, 1882, s. 26 (2): "In determining whether a signature on a bill is that of the principal or that of the agent by whose hand it is written, the construction most favourable to the validity of the instrument shall be adopted."

The Court of Appeal upheld this decision. Lord Justice BANKES stated that if the signature in the endorsement had been followed by some such words as "for the company," or "as directors," the defence would have been established. Further, in order to construe the endorsement it was permissible to take into account the circumstances under which it was made, e.g., ELLIOTT's stipulation that the bill should be "endorsed by the company's directors on the back." Lord Justice SCRUTTON concurred, but Lord Justice SARGANT based his judgment solely on the contents of the bill.

A director who omitted "*per pro.*" nevertheless escaped personal liability in *Chapman* v. *Smethurst*, 1909, 1 K.B. 927. A promissory note was there sued upon, its contents being as follows: "Six months after demand I promise to pay to Mrs. M. Chapman the sum of £300 for value received together with 6 per cent. interest per annum. J. H. Smethurst's Laundry and Dye Works Limited. J. H. Smethurst, Managing Director." The name of the company and the words "Managing Director" were rubber stamped, but the body of the note and the signature were written. Mr. Justice CHANNELL considered that "I," meant Mr. SMETHURST, who had not qualified his promise by saying "as managing director," or "for" or "on account of the company," and was therefore personally liable. The Court of Appeal reversed this decision. Lord Justice VAUGHAN WILLIAMS observed, that although the note did not profess to be signed "for" or "on account of" the company, the stamped signature of the company at the foot of the note, and placed over the written signature, was equally strong to show that the company intended to be bound by the note. Lord Justice KENNEDY and Mr. Justice JOYCE concurred.

The last-mentioned case was unsuccessfully relied upon by some directors (later in the same year) in *Landes* v. *Marcus*, 25 T.L.R. 478. A cheque was signed "B. Marcus. Director, S. H. Davids, Director," but the company's name only appeared across the top of the cheque. Mr. Justice JELF held that the directors had signed in a representative character, and as this brought them exactly within the Bills of Exchange Act, 1882, s. 26 (1) above, they were not exempt from personal liability.

Directors were saved by the use of the word "for," though they had omitted the word "Limited," in *Dermatine Co., Ltd.* v. *Ashworth*, 1905, 21 T.L.R. 510. ASHWORTH and a co-director had accepted a bill by signing as follows: "For the Motor and General Tyre Co., Melville Ashworth, Victor Talbot, directors." As the word "Limited" was missing, the directors were sued personally under the section now re-enacted in the Companies (Consolidation) Act, 1908, s. 63 (3): "If any director . . . signs on behalf of the company any bill of exchange . . . wherein its name is not mentioned, he shall be . . . personally liable to the holder, etc." The explanation was that the rubber stamp containing the name of the company was so long that it had overlapped, and the word "Limited" appeared on the blotting pad only. Mr. Justice CHANNELL held that he must read the bill as a whole, and as the company was correctly named in the bill as drawee, the bill was not one in which the company's name was not mentioned. The case under the Companies Act then in force was therefore not made out against the directors, who were not personally liable.

The cases show that a composite signature will not be held to be the signature of a company merely because it includes a rubber stamp; and that the words "*per pro.*" may only be safely omitted if the person signing has a greater chance of appearing later as a plaintiff than as a defendant.

## A Conveyancer's Diary.

**Death Duties** (*continued from* p. 839).

In last week's "Diary" we treated of the persons who, under the L.P.A., 1925, are accountable for death duties and of their powers to raise the money necessary to pay such duties. Under the note entitled "Raising of money for payment" attention might have been drawn to the provisions contained in L.P.A., 1925, s. 18 (1). By that section capital money liable to be laid out in the purchase of land to be settled in the same manner as the land in respect of which death duties are payable, and personal estate held on the same trusts as the proceeds of sale of land in respect of which death duties are payable, may, on the direction of the tenant for life, statutory owner or trustee for sale who is accountable, be applied in discharging the death duties.

This week we shall deal first with the provisions of the new Acts which protect purchasers from liability for death duties and then embark upon the somewhat difficult task of tracing the effect (if any) upon the collection and incidence of death duties, where there is a statutory trust for sale.

**Protection of Purchasers from Liability for Death Duties.**

Where a charge for death duties arising after 1925 is not registered as a land charge, a purchaser of a legal estate for money or money's worth takes free therefrom: L.C.A., 1925, s. 13 (2), and L.P.A., 1925, s. 17 (1); but if the charge for duties attached before 1926 a purchaser having notice of the facts giving rise thereto does not get this protection: *ib.*

The registration of a land charge in respect of a charge for duties is to be made by the Inland Revenue Commissioners, pursuant to L.C.A., 1925, s. 10 (1), Class D (i); but as is observed in 1 Wolst. & Cherry (at p. 172), "in the majority of cases it will not be worth while for the Inland Revenue to register a charge."

Where land affected by an unregistered charge for the payment of death duties is conveyed to a purchaser for money or money's worth the liability for the payment of the duties is shifted from the land itself to the person conveying the legal estate therein and to the proceeds of sale, funds and other property derived from the conveyance: L.P.A., 1925, s. 17 (2).

When land charged with the payment of death duties is dealt with so as to overreach such a charge, all the death duties payable in respect of the land immediately become payable and carry interest from the date of the conveyance, notwithstanding that they might otherwise have been payable by instalments: *ib.*, sub-s. (3). It seems clear, however, that if a mortgage is made to raise the instalments the whole duty will not become payable immediately. Such a result would practically defeat the scheme of raising and paying by instalments.

The right of a personal representative to recover or to be indemnified out of an estate or interest after assent or conveyance does not extend to the case of an assent or conveyance given or made in favour of a purchaser of a legal estate: Ad. of E.A., 1925, s. 36 (9); nor does the right of beneficiaries or any other person to follow property after assent or conveyance prevail against a purchaser: *ib.*, s. 38 (1).

Except in the case of a conveyance to a purchaser, a conveyance takes effect subject to any subsisting charge or liability for payment of death duties and interest, notwithstanding that the charge for duties may not have been registered: L.P.A., 1925, s. 17 (4).

**Incidence and Collection of Death Duties in respect of Land held upon the Statutory Trusts.**

The Property Acts create a large number of statutory trusts for sale; for a list of such trusts for sale "implied by statute" see 3 Prid., 22nd ed., p. 3.

The normal result under the old law where land became subject to an effective trust for sale was the notional conversion of the land into money, equity looking upon that as done which ought to have been done.

Have the nature, incidence or method of collection of death duties been in any way altered by the creation of these implied trusts?

Estate duty due upon an account of "real property" may, at the option of the person delivering the account, be paid by eight equal yearly instalments with interest from the date at which the first instalment is due: Fin. Act, 1894, s. 6 (8). Special provisions govern the valuation and rate of estate duty leviable upon agricultural property: see Fin. Act, 1894, s. 7 (5); Fin. Act, 1910, s. 61 (1); Fin. Act, 1911, s. 18; Fin. Act, 1925, s. 23. How far (if at all) have the concessions given by these provisions been taken away from the tax-payer, where a person dies entitled to an interest in the proceeds of sale under trusts for sale implied by statute?

Nothing in the L.P.A., 1925, is to alter any death duty payable "in respect of land," or to impose any duty thereon or to affect the remedies of the Inland Revenue Commissioners against persons other than purchasers: *ib.*, s. 16 (4). "Death duty" is defined to mean estate duty, succession duty, legacy duty, and every other duty leviable or payable on a death: *ib.*, s. 205 (1) (iv). "Land" includes, amongst other things, any "benefit in, over, or derived from land; but not an undivided share in land": *ib.*, s. 205 (1) (ix), and "equitable interests" include interests in the proceeds of sale of land: *ib.*, (x).

Hence, it seems clear that as regards any interest in land not being an undivided share the mere creation of the new implied trusts for sale has not affected the incidence or collection of death duties. This, we understand, is the view taken by the Inland Revenue authorities, who (subject to what is said below as to undivided shares) regard the implied trusts as merely part of the machinery of the Acts and treat property passing or deemed to pass upon a death, if it in fact consists of land, as real property for the purposes of the Fin. Act, 1894, s. 6 (8), notwithstanding the new implied trust for sale.

Two provisions contained in the Ad. of E.A., 1925, appear to confirm this view:—

(1) The creation of a trust for sale in respect of the property of a person dying intestate after 1925 does not affect the rights of any creditor of the deceased or the rights of the Crown in respect of death duties: *ib.*, s. 33 (6). Hence, if independently of such trust for sale the duties would have been payable by instalments or deductions might have been made in respect of agricultural property, the tax-payer's privilege will not be affected: see 2 Wolst. & Cherry, p. 524.

(2) Nothing in the Ad. of E.A., 1925, is to—

"(*a*) alter any duty payable in respect of real estate or impose any new duty thereon;

"(*b*) render any real estate liable to legacy duty or exempt it from succession duty;

"(*c*) alter the incidence of any death duties."

"Real estate" is defined to include every interest in land: ss. 55 (1) (xix), 3 (1); hence it would include an undivided share in land.

As regards undivided shares, the position is not perhaps so clear; and we understand that the Inland Revenue authorities are inclined to take up a different attitude. They claim that the dutiable asset on the death of the owner of an undivided share in land is no longer "land" but personal property—an interest in the proceeds of sale of the land—and that as in the definition of land in the L.P.A., 1925, s. 205 (1) (ix), an undivided share in land is expressly excluded, the saving contained in s. 16 (4) and relating to "any duty payable in respect of land" is inapplicable to an undivided share.

It is admitted that the definition of "land" in the L.P.A. takes effect subject to any contrary requirement contained in the context (*cf.* for example, ss. 34, 35), but it is doubtful whether any clear intention to the contrary can be discovered in s. 16 (4).

We do not agree with the attitude taken up by the Inland Revenue as respects undivided shares; and would advance the following reasons against their view:—

(1) Nothing in the L.P.A., 1925 is to affect the *remedies* (*semble*, whether against land or proceeds of sale of land, for there is no restriction to land alone in this case) of the Commissioners of Inland Revenue against any person other than a purchaser: *ib.*, s. 16 (4). Among such remedies is the right to demand payment by instalments in cases within Fin. Act, 1894, s. 6 (8).

(2) Nothing in Pt. I of the L.P.A., 1925 (which part contains the provisions as to death duties and those relating to undivided shares and joint ownership), is to affect the liability of the persons beneficially interested or *their respective interests in respect of any duty*: *ib.*, s. 16 (5).

In this most general provision again there is no limitation to "land," and there is a clear intention that the ultimate incidence of the duties is not to be affected. It would be affected if the Revenue contention is correct.

(3) L.P.A., 1925, s. 18 (1) (dealing with the application of capital money in discharge of death duties) indicates that references to duty "in respect of land" in ss. 16, 17 and 18 must, where the land is held upon trust for sale, include duties payable in respect of the proceeds of sale. And sub-s. (2) of the same section makes it clear that until there is a sale, exchange or legal mortgage, the duties payable in respect of the proceeds of sale of land held upon trust for sale are to be paid by instalments.

(4) The estate owner is accountable for death duties payable in respect of the estate or *interest* in land of a deceased person if such estate or *interest* is capable of being over-reached by his conveyance pursuant to a trust for sale: L.P.A., 1925, s. 16 (2). This would apply to an undivided share in the proceeds of sale of land.

(5) The proceeds of sale of land held upon trust for sale may be dealt with as "capital money": L.P.A., 1925, s. 28 (1). Hence, they are liable for all purposes of disposition, transmission and devolution to be "treated as land": S.L.A., 1925, s. 75 (5) i.e., to be treated as real property for the purposes of Fin. Act, 1894, s. 6 (8). See further 2 "Wolst. & Cherry," p. 129, 585, and the cases there mentioned.

## Landlord and Tenant Notebook.

**Construction of Covenant to Insure.**

The decision of the Court of Appeal in *Tredegar* v. *Harwood* 71 Sol. J., p. 864, has established a point of law, as to which there does not appear to have been previously any direct authority.

The question at issue in that case was whether under a covenant to insure, contained in a lease, the tenant had an option as to the office with whom the insurance was to be effected, the covenant being in the following terms, viz.: "to insure and ever afterwards during the said term keep insured the said messuage . . . in the joint names of the Lessee and the Lessor in the Law Fire Office or in some other responsible insurance office to be approved by the Lessor."

The premises were originally insured in the Law Fire Office, but subsequently the lessee did not continue the insurance in that office, but insured in another insurance company. The lessor thereupon objected to this insurance, the only reason for the objection being that the lessor, who was the owner of a considerable estate, desired all insurances to be effected in one office, so as to facilitate estate management, and no objection at all was otherwise raised to the insurance office selected by the lessee, or to the amount, terms or conditions of the policy.

It was contended on behalf of the lessor that the clause in question gave him (the lessor) an absolute discretion as to the choice of an office, and that the alternative part of the covenant came into play, only if and when for any reason the Law Fire Office was not available.

On behalf of the tenant, however, it was argued that the covenant offered a true alternative, and that the tenant was entitled to exercise an option in the matter, and that the lessor could only object to the office selected on reasonable grounds.

Now it is a maxim, in construing a document, that an interpretation should be put on it, which does not necessitate the addition of any word thereto or the omission of any word therefrom, and if the lessor's contention was correct in *Tredegar* v. *Harwood*, the addition of some such words as "failing which" to the clause in question would be necessary, so that the clause would read somewhat as follows: "to insure . . . in the Law Fire Office or (*failing which*) in some other responsible office to be approved by the Lessor."

Apart from this objection to the contention of the lessor, there is some authority, though it is only *obiter*, that such a clause confers on the tenant a real option in the matter of selecting an office. Reference on this point may be made to *Upjohn* v. *Hitchens*, 1918, 2 K.B. 48, and to the observations made in that case by Warrington, L.J., as he then was.

There the covenant to insure was in a similar form, requiring the premises to be insured by the lessor in the Imperial Insurance Company, or in some other responsible office in London or Westminster, to be previously approved of in writing by the lessor. Through the agency of the lessor the premises were insured with the Alliance Insurance Company, with which the Imperial Insurance Company had become incorporated, so that in effect the lessee had insured the premises in the company in which the lease stated he was to insure.

The *dicta* of Warrington, L.J., however, are of importance. "So far therefore," said the learned Lord Justice, "the defendants have complied with the covenant by insuring in the office with which they were not only under an obligation to insure but had the right to insure, inasmuch as the covenant did not give the lessor a right to impose another office, but only gave him the right to approve or withhold approval from some other office apparently to be selected by the lessees. The primary obligation and right is to insure in the Imperial Insurance Company, now the Alliance Company."

Indeed, it is difficult to see how any other construction can be put on such a covenant, having regard, in addition to the other matters referred to above, to the presence of the word "approved" in the covenant. That word must surely signify the right of selection by the tenant, or else it must be regarded as entirely redundant, since if the lessor has an absolute discretion there is no question of his "approving" any insurance company, but of selecting a company and directing the lessee to insure in that company.

It may therefore be regarded as having now been definitely decided that a covenant similar in form to that in *Tredegar* v. *Harwood* and *Upjohn* v. *Hitchens* does give the lessee a real option in the matter, and that the lessor can only object to a company on grounds which are both reasonable and not extraneous. As the Master of the Rolls put it in *Tredegar* v. *Harwood*, *supra*, "The lessor upon an office being submitted to him provided that it fulfilled the condition of being a responsible one must come to a reasonable decision. He must not come to a capricious decision, nor one that could be used by him to secure a personal end, even if that end were both purposeful and useful from his point of view. The decision must be in accordance with such considerations as were appropriate and would guide a reasonable man in coming to a decision, whether a particular insurance office was or was not suitable for the purpose of meeting (the particular loss). There was no reason to say that an absolute discretion was given to the lessor if that term were intended to allow him complete freedom in introducing external and extraneous considerations."

## Correspondence.

### Cases on the Property Acts.

Sir,—I should like to suggest the issuing of gummed slips briefly outlining all High Court decisions on the new Law of Property Acts, which could then be pasted in to the volume of "Statutes" opposite the appropriate section.

Paignton. Yours faithfully,
11th October. Subscriber.

[The suggestion seems a good one and will be carefully considered. We have had in mind for some time the idea of publishing, before the end of the present volume, a brief summary of all the reported decisions on the new Acts. —Ed., *Sol. J.*]

# POINTS IN PRACTICE.

**Questions from Registered Annual Subscribers are invited and will be answered by some of the most eminent authorities of the day. All questions should be addressed to—The Assistant Editor, "The Solicitors' Journal," 94-97, Fetter Lane, E.C.4, be typewritten on one side of paper only, and be in triplicate. Each copy to contain the name and address of the subscriber. To meet the convenience of Subscribers, in matters requiring urgent attention, answers will be forwarded by post if a stamped addressed envelope is enclosed.**

PRE-1926 INTESTACY—DEALING WITH LAND BY HEIR AND WIDOW BEFORE ADMINISTRATION—EFFECT.

1010. *Q.* On 4th January, 1912, W.H. died intestate, being then seised of freehold property subject to a first and second mortgage. On the 27th January, 1912, his heir at law (eldest son) and his widow (as doweress) granted and conveyed the property to a trustee upon trust to manage the property and to pay the net income to the widow for life, and after her decease to hold various specified portions of the property in trust for the respective children of the deceased. The deed contained a recital that it was the intention of the intestate that his widow and all his children should benefit by his estate, and that the heir-at-law was desirous of carrying out the wishes of the intestate. On the 8th March, 1912, letters of administration to the estate of the intestate was granted to his widow. On the 26th August, 1926, the widow died. Letters of administration limited to settled land have been granted to the trustee under the conveyance above referred to. The trustee (as such administrator) has signed an assent to the vesting of the property in the beneficiary under the above-mentioned trust deed. Can the beneficiary give a title to a purchaser? It has been suggested that on the grant of administration the property vested in the widow as administratrix so that the conveyance by the heir-at-law and doweress was ineffective. It has also been suggested that the grant of administration (under the doctrine of "relation back") confirmed the conveyance as being executed in due course of administration. Was this, however, a conveyance executed in a due course of administration? The reason given in support of this view is that the administratrix would be quite justified in conveying the property according to the direction of the doweress and heir-at-law. It is also submitted that if the legal estate was outstanding in the administratrix, she was a bare trustee, and that the L.P.A., 1925, would operate to vest the property in the person entitled to call for a conveyance.

*A.* When the widow took out letters of administration, the legal estate in her husband's real estate became vested in her by virtue of the L.T.A., 1897. Her duty, after the debts, etc., had been paid, would have been to convey and confirm to the trustee of the settlement, to whom she as doweress and her son as heir had assigned. The legal estate was thus vested in her as bare trustee on 31st December, 1925. The opinion is here given that, by virtue of the L.P.A., 1925, 1st Sched., Pt. II, paras. 3 and 6 (*c*), she held the legal estate on 1st January, 1926 in a different character, namely as tenant for life under the settlement. Either on this footing or on the assumption of "relation back" the title appears to be in good order.

SETTLED LAND—DEATH OF TENANT FOR LIFE—TITLE.

1011. *Q.* With respect to the answer to *Q.* 1009, we are informed that, notwithstanding s. 162 (1) of the J.A., the Probate Registry refuse to treat a trustee or trustees who are Settled Land Act trustees solely by virtue of s. 30 (3) of the S.L.A., 1925, as entitled to a grant in respect of the settled land. It would appear that the testator's brother, B, is only trustee by virtue of s. 30 (3) of the S.L.A., and if our information is correct, the Probate Registry would refuse to give him a special grant. We are informed that a grant of letters of administration to the estate of the testator's widow, C, is being obtained by one of her next-of-kin. Assuming this to be a general grant, will A get a good title if C's administrator assents to the devise to him under the A.E.A., s. 36, and S.L.A., s. 75?

*A.* The practice of the Probate Registry in respect of the J.A., 162 (1) (*b*), if as stated, is somewhat difficult to reconcile with the plain words of the Act, especially having regard to the fact that they are a re-enactment of the A.E.A., 1925, s. 10 (*b*), to which s. 55 (1) (xxiv), applied. On the question of title, however, the issue whether the grant has been made to the person best entitled to it, when it once has been made, is immaterial, see *Hewson* v. *Shelley*, 1914, 2 Ch. 13, and the A.E.A., 1925, s. 27. The point for the purchaser, therefore, is to see that special representation has been granted in respect of the settled land, and to derive title from the special representative, either directly or through his conveyance or assent under the S.L.A., 1925, s. 7 (5), and the A.E.A., 1925, s. 36.

MORTGAGEE ALSO LESSEE—WHETHER SPECIAL PROVISIONS NECESSARY.

1012. *Q.* L is about to take leases of three freehold properties from a limited company, and at the same time to lend the company a sum of £35,000 on mortgage of the freehold. Will it be necessary or desirable to insert in the mortgage any special provisions to cover the possibility of the lessee having, as mortgagee, to enforce her security? The appointing of a receiver, for instance, would hardly seem appropriate in such circumstances, and, if a sale should become necessary, would there be any difficulty in selling subject to the leases about to be granted to the mortgagee?

*A.* L will have certain rights in respect of her legal estate in the leases, and other independent rights in respect of her legal mortgage term, but those rights will not conflict, and there seems no reason for special provisions in either deed. She might, of course, as mortgagee, appoint a receiver to take her rent as lessee, but, if she is to be the only lessee, and the mortgage interest falls in arrear, she will more sensibly set off the rent against it. She could also sell subject to her own leases or surrender them to the purchaser according to her best interests.

VENDOR AND PURCHASER—OPEN CONTRACT UNDER THE NEW LAW—DATE OF COMPLETION.

1013. *Q.* In March of this year a vendor and purchaser verbally agree as to the sale and purchase of land. Each party signs a sufficient memorandum to come within the Statute of Frauds. The memorandum, signed by the purchaser, is headed: To A.B. (the vendor), and the memorandum, signed by the vendor, is headed: To C.D. (the purchaser). No correspondence in the ordinary sense of the word took place between the parties prior to the signing of the memoranda. It was verbally arranged that completion should take place as soon as the matter could be carried through by the solicitors, but the memoranda did not contain any mention of a date for completion.

(*a*) Can the contract be called a contract by correspondence so as to come within s. 46 of the L.P.A., 1925?

(*b*) If the conditions of sale referred to in s. 46 do not apply, when can the purchaser compel the vendor to complete? Would three months, for instance, be considered reasonable time?

(*c*) Is the vendor entitled to charge the purchaser with interest from such date on the balance of purchase money? If so, is the purchaser entitled by way of set-off to claim rent from the vendor if the land has been vacant, but not used by the vendor?

(*d*) Are the answers to the above questions affected by a dispute in respect to the interpretation of the wording of the contract, a settlement in respect of which has only now been reached ?

*A*. (*a*) A judge would hardly hold a contract evidenced merely by exchanged memoranda as one made by correspondence within s. 46, *supra*. The opinion is therefore given that the statutory conditions made under that section do not apply.

(*b*) On an open contract, both under the old law and the new, the purchase is due for completion when the vendor has proved his title. No doubt a reasonable time would be allowed for preparing conveyance, apportionment of outgoings, etc. See authorities collected, answer to *Q*. 19, Vol. 70, p. 56.

(*c*) Interest would not run against a purchaser who had tendered a proper conveyance and the purchase money with reasonable promptitude after title shown.

(*d*) This question can hardly be answered generally—it would depend on the nature of the dispute, and whether a judge would find that one party or the other had acted unreasonably. If the dispute concerned something reasonably raised on the title, completion would not be due until it had ended.

### Title of an Heir.

1014. *Q*. H.B. died intestate on 10th September, 1921, seised of a freehold house and garden (in which he lived), subject to a mortgage in fee. H.B. had no other property whatsoever. His widow, F.B., and two children, H.C.B. (son) and —.B. (daughter), both of whom were of age, survived. F.B. was entitled to her dower in respect of the property, and H.C.B. was heir-at-law to his father. F.B. (the widow) continued to live in the house until her death on 20th July, 1927. F.B. has left a will appointing H.C.B. as sole executor. F.B.'s free estate consists only of personalty under the gross value of £100, so that no question of estate duty arises, and there is no need to prove the will in respect of F.B.'s own free estate. No documents of any kind have been executed in relation to H.B.'s freehold property. The mortgage is still subsisting and the payments of interest have been kept up by F.B. (the widow). Will you please say what is necessary to be done to vest H.B.'s freehold property in H.C.B. (his heir-at-law) beneficially ? The net value of the property, after deducting the mortgage, does not exceed £150, and the question of expense is one of importance.

*A*. The effect of the new legislation in cases where, on 31st December, 1925, an heir of full age was entitled to an intestate's land subject to dower, was fully discussed in "A Conveyancer's Diary," vol. 70, p. 723, to the conclusion that, during the widow's lifetime, the heir can deal with the land as absolute owner subject to her concurrence. On the above view it therefore follows that, after the death of the doweress, the heir can deal with the property as he pleases at once, and without any further steps, subject only to the mortgage. A purchaser, however, would probably require H.C.B. to take out letters of administratisn to H.B. if this has not been done. He could then sell as administrator, or, after payment of death duties assent to himself as beneficial owner.

### Sale by Sole Executor.

1015. *Q*. A died in 1927, having made his will in 1917, devising his real estate to S in trust for his (testator's) wife for life and afterwards in trust for sale and division of proceeds between his (A's children), and he appointed S and his (A's) wife executors. Wife predeceased A in 1922. S, who proved will as surviving executor, has contracted to sell real estate in lots. Can he alone convey the property as surviving personal representative and give effectual receipts for purchase moneys under L.P.A., 1925, s. 2 (3) or otherwise, or must he appoint another trustee to act with him to give receipts for purchase moneys ?

*A*. Yes, S can sell and give receipt as sole executor on the recital that he has not assented to the devise, see L.P.A., 1925, s. 27 (2) (as altered, but not materially, by the L.P. (Am.) A., 1926, Sched.) and A.E.A., 1926, s. 36 (6).

### Equitable Mortgage to a Bank—Post-1925 Position.

1016. *Q*. A bought a house in 1920 and in 1923 deposited with a bank the deeds of the property to secure his current account. In 1927 A made a deed of assignment of all his property with his creditors, B being appointed trustee of the deed. An offer was made to the bank to buy the property, but the trustee would not agree to the figure, he maintaining that the property would fetch more at an auction. The property was put up for auction on behalf of B, the trustee, but it was withdrawn, not fetching the reserve, and the bank would not agree to let the property go under the reserve because such a sale would have nowhere near cleared them.

This being the case, can the bank now sell under their power of sale without getting the consent of the trustee of the deed ? Note the bank's is an equitable charge, and in the deed, notice demanding payment had to be given to A before their power of sale arose ; notice, in fact, has been given both to A and B. A is still in possession of the house. Can the bank ask for payment of rent for the occupancy of the house from the date of the deed of assignment ? Are they entitled to charge rent ? Or is the trustee entitled to it for the benefit of the creditors ? There is no attornment clause in the memorandum of deposit. Until the property is sold, interest on the loan the bank granted to A is accruing, and, naturally, to avoid this the bank hope that they are entitled to rent either from A or B.

*A*. The questioner does not make the position quite clear, for he states that the bank had an "equitable charge," but refers to "the deed" in its favour. If there was a deed, the charge was not an "equitable mortgage" within the Stamp Act, 1891 (see s. 86 (2)), and, presumably, would be in the usual form of a first mortgage. If, however, there was no conveyance subject to redemption, so that the usual statutory power of sale is not available, there appears to have been an express power of sale, which the new legislation preserves, see L.P.A., 1925, s. 13. The bank can now sell, therefore, without consent if it could have done so under the old law. A mortgagee is not entitled to rent in addition to mortgage interest from a mortgagor in possession, even if he has attorned, and if he received rent he would have to apply it in reduction of interest and then of principal. There is, of course, old authority that a mortgagee may at any moment treat a mortgagor in possession as a trespasser, see *Doe d. Roby* v. *Maisey*, 1828, 8 B. & C. 767, and, on such footing, he might perhaps even take the drastic course of ejecting him by force without fear of civil consequences, see *Hemmings* v. *The Stoke Poges Golf Club, Ltd.*, 1920, 1 K.B. 720. Assuming, however, that the bank did not wish to go to such lengths, a writ to recover possession, if the premises cannot be sold, might result in an arrangement for periodical payments, by way of occupation rent, to be credited for interest, and, if in excess, in reduction of principal.

### Undivided Shares—Death of Owner of One Share.

1017. *Q*. On 31st December, 1925, A and B were seised in fee simple in possession free from incumbrances of certain freehold properties as tenants in common in equal shares. A died on 14th August, 1926, leaving a will by which he appointed B and C executors and trustees thereof. After making various bequests A devised and bequeathed the remainder of his estate and effects both real and personal (including the freehold properties) unto B absolutely. The one-half share of A in the freehold properties was brought into account in the Inland Revenue affidavit as personal estate as A's one half share in the proceeds of sale of the

properties. Under the L.P.A., 1925, A and B held the properties upon trust for sale, and it is assumed that on the death of A the properties would vest in B as sole trustee. The question now arises on winding up the estate of A whether anything remains to be done to complete B's title to the properties as beneficial owner.

(1) Is it necessary for B to execute any vesting assent or deed in favour of himself?

(2) Can B, as surviving trustee, make a good title to the freehold properties without another trustee being appointed to give a receipt for the purchase money along with him?

(3) Should any other steps be taken for the purpose of enabling B to make a good title to the freehold properties?

*A.* (1) The executors of A's will, i.e., B and C, must assent to the vesting of the share of A in the proceeds of sale in B as beneficiary under A's will. But the interest not being a legal estate Ad. of E.A., 1925, s. 34 (4), does not apply, and so the assent may be oral or by conduct. It need not be in writing. So no vesting assent in writing or a deed is necessary, though to facilitate the making of title it is advisable to have some evidence of the assent.

(2) Yes. Probate of A's will will be evidence that B is absolutely and beneficially entitled to the whole.

(3) No.

Settled Land—Person with Powers of Tenant for Life—Power to Lease for Ninety-nine Years.

1018. *Q.* J.D. is the estate owner in possession of Brownacre, which is subject to annuities totalling £35 per annum in favour of A, B and C. J.D. now proposes to lease to X for ninety-nine years part of the land in question. Is it necessary for J.D. to consult or obtain the consent of the annuitants before granting the proposed lease? Please quote the authority?

*A.* If the annuities are within the classes mentioned in S.L.A., 1925, s. 1 (1) (v), the land is settled land and J.D. has the powers of a tenant for life under s. 20 (1) (ix). Further, he can, under the L.P. (Am.) A., 1926, s. 1, create a legal estate in the land, subject to the annuities as if it was unsettled, with the same result.

Income Tax—Accumulation directed by Testator—Exemption from Tax—Extent of.

1019. *Q.* By his will J.M., who died on the 13th March 1920, directed his trustees to accumulate the income of his residuary estate from the date of his death until the 1st January, 1927, and at the end of that period to divide the estate, as in the will mentioned. Some of the residuary legatees are exempt from tax, by reason of their incomes being under the amount taxable, and have intimated to the inspector of taxes that they propose to reclaim the tax charged on the accumulated income on their shares in the residuary estate. The inspector replies as follows: "I find that the case is covered by a departmental instruction which is as follows: 'In the case of income arising from any fund and accumulated for the benefit of any person prior to and contingent on the happening of an event other than the attaining of some specified age or marrying, no relief is due on such income.'"

*A.* The departmental instruction quoted above appears to be based on the fact that s. 25 of the Income Tax Act, 1918, extends the ordinary limit of time for claiming exemption or abatement in certain cases of accumulation, but not in that above stated. But the ordinary limit of six years for claiming exemption or abatement, under s. 41 as extended by the F.A., 1923, s. 30 (1), will still apply (as the previous three years' limit was admitted to do in *Roberts* v. *Hanks*, 1926, W.N. 83, 10 Tax Cases, 351), and in the case put, the relief will fall little short of that under s. 25. The claim should therefore be based accordingly, and should then be allowed.

Undivided Shares—One Share Settled—Vesting Appointment of New Trustees to replace Public Trustee.

1020. *Q.* Conveyance dated October, 1887, on sale of freehold property to A and B, his sister (married woman), as tenants in common. A still survives. B died intestate in 1894, leaving a husband, C, who still survives. B and C had one child only who died in infancy. A is B's heir-at-law and is therefore beneficially entitled to the whole of the property subject to a tenancy by the curtesy (in a moiety) of the husband C. No document affecting the position has been signed since Conveyance of October, 1887, and the whole property appears to be now vested in the Public Trustee. What is necessary to put the title on a proper basis? S.L.A., 1925, s. 20 (3) provides that, the interest of a tenant by the curtesy is deemed an interest under a settlement made by the wife. If para. 1 (4) of Pt. IV of the 1st Sched., L.P.A., 1925, applies, can an appointment of trustees under that paragraph by A and C be effective without the further appointment of S.L.A. Trustees in respect of the moiety? See precedent as to appointment of trustees, "Key & Elphinstone," 12th Ed., Vol. I, Pt. II, p. 1016. Would the power of sale of the tenant by the curtesy cease and such power be vested (as to the whole of the land) in the new trustees appointed under para. 1 (4) as above?

*A.* A and C can appoint trustees in exercise of the power conferred by L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (4), "and of all other powers." No vesting declaration is necessary on such appointment. The interest which C has as tenant by the curtesy is no longer land, and so the S.L.A., 1925, does not apply to it. He simply has (after 1925) a life interest in half the proceeds of sale of the land, and he has no power of disposition in respect of the whole share. The power of disposing of the land as a whole will be vested in the new trustees for sale. The precedent mentioned can be used.

Mortgage Co-Owners—Right of Redemption Statute-Barred—Proposed Sale to One Co-Owner and Others—Title.

1021. *Q.* Freehold property was conveyed to A, B and C in fee simple, as joint tenants by way of mortgage, in 1900, for securing £1,336 and interest, which belonged as to £1,136 to A and B on a joint account, and as to £200 to C absolutely. A died in 1911 and B in 1914 transferred his interest in the mortgage to D and E, the consideration moneys being paid out of moneys belonging to D and E on a joint account. C died in 1906, and his executors in 1920 transferred his interest in the mortgage to E absolutely. Default was made in payment of the mortgage debt and interest, and in the year 1909 the then mortgagees entered into possession of the property, and a title, by virtue of the Statutes of Limitation, was acquired in 1921. D and E have agreed to sell the property to E, F and G for value. How can E, F and G get a good title? It is contended on behalf of D and E that the legal position is that the purchasers have no notice of any trust by reason of the mortgage money having been advanced out of moneys belonging to D and E on a joint account in 1914, and that they became beneficial owners in 1921 and now hold on trust for sale under s. 36 of the L.P.A., 1925, for themselves as beneficiaries, and that a conveyance by D and E as trustees for sale to E, F and G will give E, F and G a good title. But E being both a vendor and a purchaser, are E, F and G deemed to have notice of the trusts (if any) under which D and E hold the property? If so, and a trust were disclosed, would not D and E hold the property upon trust for sale under s. 31 of L.P.A., 1925 (formerly s. 9 of C.A., 1911)? In this case would D and E, as trustees, be unable to give a good title to E, F and G unless D and E's beneficiaries were joined to concur in the conveyance? Alternatively, are the solicitors for E, F, and G, bound or concerned to enquire, under the

circumstances, whether any trust exists under which D and E hold the property ?

*A.* On 31st December, 1925, the title would have shown that D and E alone were interested in the property (upon proof by them that the right of redemption was barred), but in unequal shares. Therefore they could have conveyed on that date to a stranger as tenants in common in fee simple, and on 1st January, 1926, and thereafter as trustees for sale under the L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (2). Assuming, however, that a purchaser had notice of a trust, the situation would not be materially changed, because a trust for sale would have arisen and continued under the C.A., 1911, s. 9 (1). The difficulty as to notice could, therefore, have been overcome. A much more formidable one, however, appears to be the dual position of E as vendor and purchaser on a trust for sale. In the latter capacity, whether acting for himself as trustee, his presumed object would be to obtain the property as cheaply as possible; in the former, his duty would be to sell at the best price. The opinion is therefore given that a trustee for sale cannot validly exercise his trust either by sale to himself alone (see *re Norrington*, 1879, 13 C.D. 654), or with others. Possibly E, F and G might waive this objection, but, taking under an impeachable conveyance, there would be a flaw in their title. Either, then, E must *bona fide* retire from one trust or the other, or possibly title could be made, not under the trust for sale, but by all the beneficiaries directing D and E to convey under the L.P.A., 1925, s. 23. Careful drafting, however would be necessary to make the conveyance a good title-deed.

## Reviews.

*Handbook of the Cambridge Law School.* 1927–1928. Edited by a Committee of the Board of The Faculty of Law. Cambridge: Printed at The University Press for the Board of The Faculty of Law, and to be obtained at The Squire Law Library. viii and 130 pp. 2s. 6d.

"Would you advise me to take a law degree before becoming articled ?" "How and upon what terms can I be called to the Bar ?" "From what scholarship or other fund is it possible for me to get assistance in the course of my training in law ?" Those and scores of similar questions are continually being asked of members of both branches of the legal profession. This handbook contains either the necessary accurate information upon which a proper reply to such questions can be based, or the references to those sources which give the requisite information.

The Handbook is now published for the first time, but the promise is given that it will be revised annually, and appear shortly before the beginning of the Michaelmas Term. It is a really excellent idea; the amazing thing is that it has taken such time to be conceived. Further, it is published at a reasonable price, and so it can, and ought to, reach everyone who may be called upon to offer advice to young men and women contemplating entry into the legal profession.

*The Howard Journal.* Vol. II., No. 2. Published by the Howard League for Penal Reform. 2s. 6d.

This, the first number published since the resignation of the honorary secretaryship of the League by Miss Margery Fry, is an excellent one. Immediately following the editorial is a friendly appreciation of Miss Fry and her work, by Mr. Cecil Leeson.

The new secretary and editor, Miss C. M. Craven, M.A., contributes a searching analysis of the criminal statistics, 1925, and a review of the Young Offenders Report.

One of the most interesting papers is entitled "The Fountain of Justice," by "a solicitor," who regards the appointment of whole time clerks to justices, debarred from private practice, as a step which would put the courts of summary jurisdiction on a sound basis.

In other articles the exemption of persons under twenty-one from the death sentence, the total abolition of capital punishment, the development of education in prison and other changes and reforms are advocated. In more than one contribution is to be found well-deserved condemnation of the use of police cells as places of imprisonment under sentence.

The whole number well reflects the considerable thought and study now being given to problems of delinquency and their solution. No person will agree with all that is said, indeed the papers themselves show a healthy variety of opinion, but no one who desires to keep abreast of what is known and what is projected as to the problems here dealt with can afford to neglect the Howard Journal.

## Books Received.

*Statutory Rules and Orders.* 1927. No. 1004. The Public Health (Infectious Diseases) Regulations, 19th October, 1927. H.M. Stationery Office. 2d. net.

*The Arbitrator.* The Journal of the Institute of Arbitrators Incorporated. Vol. I, New Series, October, 1927. No. 1. 24 pp. The Institute of Arbitrators (Incorporated), 29, Bedford-square, W.C.1. 1s. net.

*Mew's Digest of English Case Law.* Quarterly Issue. October, 1927. Containing Cases reported from 1st January to 1st October, 1927. AUBREY J. SPENCER, Barrister-at-Law. pp. xxii and 311. Stevens & Sons, Ltd.; Sweet & Maxwell, Ltd.

*Reports of Tax Cases.* Vol. XI, Part IV. 1927. pp. 232 to 263, inclusive. H.M. Stationery Office. 1s. net.

*Prevention of Bribery.* No. 141. October, 1927. Bribery and Secret Commissions Prevention League Incorporated, 22, Buckingham-gate, S.W.1.

*The Case of Sacco and Vanzetti.* A Critical Analysis for Lawyers and Laymen. FELIX FRANKFURTER. 1927. pp. 118. Little, Brown & Company, Boston, Mass. $1.00 net.

*The "M.P." Journal.* New Series. Vol. I, No. 11. November, 1927. The Mutual Property Insurance Co., Ltd., 159/165, Great Portland-street, W.1. 1d. net.

*The Irish Law Times and Solicitor's Journal.* Vol. LXI, No. 3170. 29th October, 1927. John Falconer, 53, Upper Sackville-street, Dublin. 1s. net.

*The Lawyer and Banker, combining the Southern Bench and Bar Review, Title and Title Men* (1915), *Chicago, The Banker and Investor* (1914), *New York, Central Law Journal.* A Journal for Corporation Lawyers and Title Men. Old Series, Vol. CI. New Series, Vol. XX—No. 5. September-October, 1927. pp. 281 to 349 and xx. The Lawyers and Bankers Company, 921-27, Lafayette-street, New Orleans, La. 75 cents.

*Agriculture and the Nation.* The Right Hon. E. G. PRETYMAN, J.P., D.L. pp. 16. The Land Union, 15 Lower Grosvenor-place, S.W.1. 3d. net.

### U.S. CRIMINAL LAW.

There is a real danger of filling American prisons with life prisoners who are guilty only of petty offences, according to recent records in the various States which have adopted the Habitual Criminal Act. Under the provisions of this Act judges have no alternative but to impose a life sentence when the prisoner has a record of several convictions, even though the previous delinquencies may have been only picking a pocket or violating prohibition. The latest illustration of the tyranny of this law is that of Mrs. Helen Brennan, of Detroit, Michigan, thirty-two years of age, the mother of eleven children, who must be sent to prison for life because she has been convicted of petty theft. Mrs. Brennan claims that she has developed kleptomania before the birth of each of her children, which explains her six convictions for stealing.

# Privy Council.

**The Attorney-General of Nova Scotia** *v.* **The Legislative Council of Nova Scotia.** 18th October.

NOVA SCOTIA—LEGISLATIVE COUNCIL—NUMBER OF MEMBERS—POWER TO INCREASE—HOLDING OFFICE DURING PLEASURE.

*The Lieutenant-Governor of Nova Scotia has power, acting with the advice of the Executive Council, to appoint, in the name of the Crown, members of the Council, exceeding twenty-one in number, or exceeding the number of the members who held office at the Union, as mentioned in s. 88 of the British North America Act, 1867. The tenure of office of such members is during the pleasure of His Majesty, represented by the Lieutenant-Governor, acting on the advice of the Executive Council.*

This was an appeal from the Province of Nova Scotia, and raised a question of great importance, as to the power to appoint additional members of the Legislative Council. The questions referred to the Supreme Court for hearing and consideration were: (1) Whether the Lieutenant-Governor, acting with the advice of the Executive Council, had power to appoint so many members of the Legislative Council, that the total number would exceed twenty-one, or would exceed the number who held office at the Union; (2) whether the membership of the Legislative Council was limited in number; (3) whether the tenure of office of members appointed prior to 7th May, 1925, was during pleasure; and (4) whether, if such tenure was during pleasure, it was during the pleasure of the King or during the pleasure of His Majesty, represented by the Lieutenant-Governor. The matters so referred to the Supreme Court were heard and considered by a court, consisting of four judges, who differed in opinion. Thereupon, the Supreme Court certified *pro forma* for all purposes of appeal to His Majesty in Council, that its opinion on the matters referred to was according to the opinion of the Chief Justice, and ordered that final judgment be entered accordingly *pro forma* for the purposes of appeal. It was from the judgment so pronounced that this appeal was brought.

THE LORD CHANCELLOR, delivering the judgment of their lordships (Lords HALDANE, WRENBURY, WARRINGTON and Mr. Justice DUFF), after referring to the history of the Province and the relevant documents, said it was plain that the commissions issued to successive Governors until the Union did not impose any limit on the number of members. Nor did their lordships find in the correspondence between the Lieutenant-Governor and the Colonial Secretary anything to limit the number. Nor did s. 88 of the British North America Act, 1867, have the effect of limiting the number. Further, in their lordships' opinion, the right to increase the membership of the Council was not severable from the right to appoint new members. Their lordships would, therefore, answer both parts of question (1) in the affirmative, and question (2) in the negative. The answer to the third question was dictated by similar considerations based on the history of the Province. It was expressly provided by the commissions issued to successive Governors before the Union that the members should hold office during the Queen's pleasure, and it followed that, according to the constitution of the Legislature as it existed at the time of the Union, the members were appointed during pleasure. In this respect, as in others, the constitution was continued by s. 88 of the Act of 1867. With regard to question (4), their lordships agreed with the opinion of the Chief Justice and Mr. Justice Chisholm, that the tenure was during the pleasure of the Sovereign, represented in that behalf by the Lieutenant-Governor, acting by and with the advice of the Executive Council. The result was that their lordships found themselves substantially in agreement with the opinions of the Chief Justice and Mr. Justice Chisholm on every point, and they would humbly advise His Majesty that the questions should be answered as follows:—(1) Yes; (2) at present a full house was twenty-one, but the number could be increased by the Lieutenant-Governor, in Council; (3) during pleasure; (4) during the pleasure of His Majesty, represented by the Lieutenant-Governor acting with the advice of the Executive Council. No question arose as to costs.

COUNSEL: *The Hon. W. Lorimer Hall*, K.C. (Attorney-General for Nova Scotia), and *S. E. Pocock; Stuart Jenks*, K.C., and *W. C. Macdonald* (both of the Canadian Bar).

SOLICITORS: *Burchells; Linklaters & Paines.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

# Court of Appeal.

No. 1.

**Tredegar** *v.* **Harwood.** 27th October.

LANDLORD AND TENANT—LEASE—LESSEE'S COVENANTS—MESSUAGE TO BE INSURED IN THE L. OFFICE "OR IN SOME OTHER RESPONSIBLE INSURANCE OFFICE TO BE APPROVED BY THE LESSOR"—LESSOR'S CLAIM TO RESTRICT TO L. OFFICE—ALTERNATIVE CHOICE GIVEN TO LESSEE—"APPROVAL" BY LESSOR TO BE REASONABLE.

*Where a lease contains a covenant that the lessee must insure in a certain named fire office or "in some other responsible insurance office to be approved by the lessor," the lessee is given an alternative choice. The lessor cannot insist upon insurance being effected in the named office, or in any other office, but must allow the lessee to select any other responsible office; exercising the discretion as regards approval in a reasonable and not capricious manner.*

Appeal from a decision of Tomlin, J.

The plaintiff, Lord Tredegar, was the freeholder of a large amount of land in the neighbourhood of Newport and Cardiff, on which some thousands of houses had been erected on building leases, generally for ninety-nine years. The defendant, Mrs. Annie Harwood, was the assignee of one such lease, and it contained the usual covenant to insure, in the terms (so far as material) that the lessee would "insure and ever afterwards during the said term keep insured the said messuage . . . in the joint names of the lessee and the lessor in the Law Fire Office or in some other responsible insurance office to be approved by the lessor . . ." The defendant, when the lease was assigned to her, did not continue the then existing policy in the Law Fire Office, but insured in the Atlas Company. The plaintiff refused to accept that insurance, or to "approve" the Atlas Company, and he brought the action against the defendant in the form of an action for forfeiture of the lease by reason of breach of covenant. At the hearing of the action, however, and during the present appeal counsel stated that the plaintiff did not desire to obtain a forfeiture of the lease, but to know whether he could require a lessee or an assignee to insure in the Law Fire, or in some other office of his (the plaintiff's) selection, or whether he was bound to approve an insurance effected in a company chosen by a lessee. In his statement of claim and subsequent particulars he stated that the reason for requiring insurance in the Law Fire was to facilitate estate management. He desired to have all the houses of which he was the ground landlord insured with the same company. Tomlin, J., decided in favour of the plaintiff, holding that the covenant gave a right to the lessor to approve a company at his discretion. The defendant appealed. The court, in a considered judgment, allowed the appeal.

Lord HANWORTH, M.R., said that the plaintiff had frankly admitted that he did not object to the policy taken out by the defendant, either as regards amount, terms, or conditions; nor did he suggest that the Atlas Company was not in every way a "responsible" office within the purview of the covenant. His case was that the covenant was directory, and that the so-called "alternative" part of it only came into play if and when, for some reason, the Law Fire Office were not available; and further, that in any case the lessor could

refuse his consent at his absolute discretion. The defendant alleged that the covenant offered a true alternative, which ought not to be refused upon a ground extraneous to the purpose of the insurance. The form of the covenant had appeared for years in many text-books. The purpose of taking the policy in the joint names of both lessor and lessee was to make the money available for both parties, who had each an interest in the matter. The form of the covenant appeared, on the face of it, to give an option to the lessee. Although direct authority was lacking, Warrington, L.J., in *Upjohn* v. *Hitchens*, 62 Sol. J. 567; 1918, 2 K.B. 48, read such a covenant as conferring a choice upon the lessee subject to approval by the lessor. The meaning put upon the words by the plaintiff really required the addition of some such words as "failing which" to indicate that the alternative was really a subservient clause, only coming into play upon the failure of the Law Fire Office to accept the risk. He could see no reason for adopting a device to avoid the plain meaning of words expressing an alternative. The words "to be approved" also seemed to indicate that the submission of another office was to be originated by the lessee, with the right and duty of the lessor to give his decision as to approval or disapproval. Cases had been cited in which the right to an arbitrary or capricious negation of approval was not accepted: *Braunstein* v. *Accidental Death Insurance Co.*, 1 B. & S. 782; *Houlder Brothers & Co.* v. *Gibbs*, 69 Sol. J. 541; 1925, Ch. 575; and *Scott* v. *Barclays' Bank Lim.*, 67 Sol. J. 456; 1923, 2 K.B. 1, were cases in point. It was difficult to see why the covenant should not be construed according to its terms and be given a reasonable meaning. It appeared to confer an alternative upon the lessee to be exercised at his volition. And the lessor, upon an office being submitted to him, provided that it fulfilled the condition of being a responsible one, must come to a reasonable decision. He must not come to a capricious decision, nor one that could be used by him to secure a personal end, even if that end were both purposeful and useful from his point of view. The decision must be in accordance with such considerations as were appropriate and would guide a reasonable man in coming to a decision whether a particular insurance office was or was not suitable for the purpose of meeting loss by fire. There was no reason to say that an absolute discretion was given to the lessor if that term were intended to allow him complete freedom in introducing external and extraneous considerations. The appeal must be allowed, with costs.

Lords Justices Sargant and Lawrence gave judgments to the like effect.

Counsel: *Archer*, K.C., and *Foa*, for appellant; *Gavin Simonds*, K.C., and *Romer*, for the respondent.

Solicitors: *Church, Adams, Tatham & Co.*, for *Merrils, Ede & Nicholls*, Cardiff, for appellant; *Rider, Heaton, Meredith and Mills*, for *Davis, Lloyds & Wilson*, Newport, for respondent.

[Reported by G. T. Whitfield-Hayes, Esq., Barrister-at-Law.]

# High Court—Chancery Division.

*In re* **Lanyon: Lanyon** *v.* **Lanyon.**

Russell, J. 23rd, 24th June; 7th July.

Will—Construction—Residuary Estate—Income to Son for Life—Remainder to Children—Forfeiture if He Married "A Blood Relation"—Void for Uncertainty—Void in Restraint of Marriage.

*A provision for forfeiture in the event of a person marrying a "blood relation" is not void for uncertainty, but is void as being in restraint of marriage.*

Kirby *v.* Monck, 1795, 3 Ridg. Parl. Rep. 205, *applied.*

Originating summons. This was an originating summons taken out by the trustees of the testator's will asking (*inter alia*): (1) That it might be determined what persons or classes of persons were upon the true construction of the will "relations by blood" or "blood relations" of the defendant James Lanyon, and (2) that it might be determined whether the gift over in the event of his marrying "a blood relation" (*a*) was void altogether, (*b*) would in that event determine the defendant's life interest in the residuary estate, or (*c*) would in that event operate so as to defeat the estates of the issue (if any) of the defendant by any marriage he might contract other than the marriage so contracted by him with a "blood relation" as well as the issue of any such marriage. The testator died in 1924, and by his will left his property in trust to his trustees to pay the income to James Lanyon for his life, and after his death in trust for his children "provided he does not marry a relation by blood, as I wish to mark my great objection to marriage between blood relations. And in the event of my son not leaving a child or children surviving him who shall live to attain the age of twenty-one years, or in the event of his marrying a blood relation," then upon certain other trusts over.

Russell, J., after stating the facts, said: The first question whether, if the defendant married a blood relation, he would lose his life interest, presents no difficulty. The proviso is in no way annexed to the gift of his life interest. It, and the gift over in the event of his marrying a blood relation, are included in and apply only to the trusts declared to take effect on his decease. The second question, whether the provisions in the will in regard to his marrying a blood relation are void, is more difficult. The meaning of blood relationship is clear enough. It cannot here refer to statutory next-of-kin. It must mean all persons descended from a common ancestor, however remote. In the first place, it is argued on behalf of the defendant that the proviso and condition are intended to defeat the vested interests previously given to the children. That, in order to be valid, such a provision must be of such a nature that it must be possible, at any given time, to know its limits and to know whether there has in fact been a breach of the condition or not. That, in the present case, it is impossible for the defendant at any given time to know its limits or to be sure that any person he marries is not a blood relation. The authorities cited in support of those contentions are *Clavering* v. *Ellison*, 1856, 3 Dr. 451; 1857, 8 De G. M. and G. 662; 1859, 7 H.L.C. 707; *In re Viscount Exmouth*, 1883, 23 Ch. D. 158; and *In re Sandbrook*, 1912, 2 Ch. 471. These cases do not support the proposition in question, but they do support the proposition that such a provision must indicate in clear terms what the event is upon which the defeasance of a vested estate is to take effect. There must be no uncertainty on that score. In the present case the prescribed event is quite clear, but it is said that it is difficult, and probably impossible, for the defendant to ascertain whether a particular marriage would be, or had been, a breach of the provision. The authorities cited do not justify the court in declaring the provision to be void on that ground. The second argument presented on behalf of the son is that the provision for defeasance is void on grounds of public policy as being in restraint of marriage. Many such conditions have been held valid (see *Perrin* v. *Lyon*, 1807, 9 East, 170; *Hodgson* v. *Halford*, 1879, 11 Ch. D. 959; and *Jenner* v. *Turner*, 1880, 16 Ch. D. 188). All partial restraints of marriage are not necessarily valid because they are partial only. It is not enough to say that a particular restraint is not a general restraint, but left open a field of choice, and is therefore valid. Considerations of public policy require more than that. It still remains to be considered in each case whether the particular restraint is reasonable—reasonable, that is to say, from the point of view of public policy. A restraint which, though in terms partial, from its nature would, or might, lead in practice to a probable prohibition of marriage would fall within the mischief which public policy requires should be prevented. This view was established in *Kirby* v. *Monck*, *supra*. The restraint here is in terms partial. Although no one can say how large or small a portion of the female world is left open to choice, it is still in terms a partial restraint. But its nature is undoubtedly such that it will be difficult,

almost impossible, to ascertain definitely that any particular lady is not a blood relation. No marriage with a supposed stranger in blood can be contracted except subject to the risk that should a common ancestor be traced the provision for defeasance would operate. The defendant could only be certain that he was marrying a blood relation; he could never be certain that he was not. A provision which by its nature produces these results is a provision leading to the probable prohibition of marriage, and is void accordingly.

COUNSEL: *Rawlence, Farwell*, K.C., and *C. Harman; Bennett*, K.C., and *Harold Christie; Beebee.*

SOLICITORS: *Patersons, Snow & Co.*, for *Hare & Son*, Much Hadham; *Carleton Holmes, Fell & Wade*, for *Nockolds and Son*, Bishop's Stortford.

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

*In re* **Fegan; Fegan** *v.* **Fegan.** Tomlin, J. 14-18 October.

WILL—SPECIFIC LEGACIES—MORTGAGED PERSONAL PROPERTY—GIFT OUT OF—PAYMENT OF DEBTS OUT OF SPECIAL FUND—DIRECTION FOR—PROPERTY LIABLE TO DISCHARGE MORTGAGE DEBTS—ADMINISTRATION OF ESTATES ACT, 1925, 15 Geo. 5, c. 23, s. 35.

Originating summons. This was a question whether the Administration of Estates Act, s. 35, applied to make the burden of discharging a certain mortgage fall on certain policy money or whether a contrary intention had been shown by the testator's will and codicil. The facts were as follows: A testator who died on 9th February, 1927, by his will devised and bequeathed certain freehold and leasehold property and certain chattels and some ready money upon trust for sale and to pay his funeral and testamentary expenses and debts. He also bequeathed to his four daughters the proceeds of certain life policies, and after making other devises and bequests, directed his trustees to invest the residue of his real and personal estate, and to hold the investments upon the trusts therein mentioned. By a codicil he revoked the gift of policy money, and in lieu thereof gave each of his daughters the sum of £1,000 thereout, and disposed of the remainder of the said money in favour of his son Clifford, as therein mentioned. The policies, which with the bonuses at the time of the testator's death, produced £5,599 7s. 5d., were subject to mortgages for sums amounting to £2,002. The court having decided that the four legacies were specific and not demonstrative.

TOMLIN, J., after stating the facts, said: The will contains a disposition by which the testator constitutes a specific fund consisting of freehold and leasehold property, chattels and ready money as a fund for payment of his debts. It is not a direction for payment of debts out of any of the funds mentioned in s. 35, sub-s. 2. That being so, the question is whether, apart from sub-s. (2) there is a "contrary or other intention expressed." I think it difficult to say that when once a testator directs payment of debts out of a specific fund he does not intend the particular debt in question to be paid out of that fund. I therefore hold that a contrary intention has been expressed within the meaning of the section. The specific fund being insufficient, a question arises how the balance of the debt should be borne. I have little doubt that although the language of s. 35 is not precisely the same as that used in Locke-King's Act the object of the section is to place personal property on exactly the same footing as that on which real estate had stood since Locke-King's Act. I think therefore that the language of Swinfen Eady, J., in *In re Birch*, 1909 1 Ch. 787 applies. I hold therefore that in so far as the special fund for payment of costs is insufficient, the sum charged on the policies is payable out of the policy money as the fund charged.

COUNSEL: *Sir Arthur Underhill; Bradley Dyne; Eardley Wilmot; Freeman; R. R. Fermoy.*

SOLICITOR: *W. J. A. Edwards.*

[Reported by L. M. MAY, Esq., Barrister-at-Law.]

# Societies.

## The Law Society.

PRELIMINARY EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 13th and 14th October:—

Geoffrey Weaver Adams, Thomas Godfrey Barrows, Guy Stanley Maitland Birch, Allen Chaffer, Basil Hallas Clark, John Reeves Ellerman, William Proudlock Errington, Cecil William Forward, George Vincent Freeman, Robert Meredith Gamble, John Mason Haywood, Douglas William Maclagan Henderson, John Henwood-Jones, Thomas Donald Hilton, Elizabeth Antoinette Holt, Thomas Graham Vincent Johns, Robert Edis Legat, Leonard Mark Liell, Robert Lunn, Raymond Arthur McKenzie, Stephen Fenwick Mill, Edwin Ronald Mitchell, Harold Owen, Leslie Arthur Owen, Humphrey Leslie Malcolm Oxley, Philip Henry Abercrombie Peaty, Guy George Morris Pritchett, Arnold Wilmot Rees, Reginald Philip Flack Rickard, William Keith Robinson, Leonard Jabez Russell, Herbert Walter Shibko, Henry Clifton Simmonds, Raymond Noel Snell, Harold Sutcliffe, Jessie Elizabeth Gordon Swann, Aldersey Maynard Taylor, Leslie Edward Thompson, Edward George Tibbits, Peter Gerald Upcher, Edward Thomas Verger, Leonard Vaughan Watkins, Elliott Henry Whitfield, George James Kenneth Widgery, Richard Allen Wilding, James Wolstan Wilson, Tom Philip Woodbridge.

No. of Candidates, 75. Passed, 47.

## Law Society's School of Law.

A moot was held at The Law Society's Hall, on Friday, 28th October, before a court presided over by Mr. R. S. T. Chorley, a member of the teaching staff.

The following case was set for argument:—

William Slippery appeals to the Court of Criminal Appeal against his conviction for larceny at the Central Criminal Court.

The circumstances were as follows: William Slippery, an articled clerk, twenty-five years of age, owes £20 to Bertie Bloodsucker, a moneylender, who is pressing him for payment. William Slippery, meeting Very Carefulcuss in the students' luncheon-room, explains the matter to him, and asks him for the loan of £20. Carefulcuss says he cannot lend him £20, but he will help him to the extent of £10. Slippery, relieved at being able to send Bloodsucker something on account, sits down at once and writes a letter to Bloodsucker informing him that he is sending £10 on account. Carefulcuss, feeling rather sorry for Slippery, invites him to dine at the Trocadero, and, while they are in a taxi, Carefulcuss takes a banknote from his pocket-book and hands it to Slippery, who puts it into the letter he has written to Bloodsucker, and posts the letter outside the restaurant. The next day, when Slippery and his friend, Archie Cadger, are lunching in a restaurant, Bloodsucker comes up and places a £50 note upon the table and says: "See what you sent me by mistake." Slippery replies: "Thank God for an honest man. Let me have the change." Bloodsucker gives Slippery change. Slippery does not inform Carefulcuss of the mistake, but buys with the money a motor-cycle from his friend Reginald Sellall. Carefulcuss, discovering the mistake about ten days later, reports the matter to the police. Slippery is committed for trial, and in due course indicted for larceny contrary to s. 2 of the Larceny Act, 1916.

[This case in substance formed the subject of a mock trial held in 1921 by the Cambridge University Law Society, to which Society acknowledgment is made.]

Mr. Chorley was assisted on the bench by Mr. R. C. Hodgins, Mr. J. H. A. Lang, Mr. I. L. Maltz, and Mr. H. H. Marshall (students). The court upheld the conviction and dismissed the appeal. The following took part as counsel: For the appellant: Mr. T. M. Wechsler (student), Mr. J. Lyons (student). For the Crown: Mr. A. E. Oliver (student), Mr. W. J. L. Parker-Ayers (student).

## Society for Jewish Jurisprudence.

The next ordinary meeting of the English branch of the above society (of which Mr. A. M. Langdon, K.C., is Hon. President) will be held on Wednesday next, the 9th inst., at Lecture Room A, King's Bench Walk, Inner Temple (adjoining the Library), when a paper will be submitted by Mr. Geo. J. Webber, LL.B., Barrister-at-law, on "Recent Jewish Jurisprudential Activities in Palestine." The chair will be taken by Mr. Langdon at 5 p.m.

## Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Hall, on Tuesday, 1st November (Miss D. C. Johnson in the chair), the subject for debate was "That this House deplores the passing of the Trade Disputes and Trade Unions Act, 1927." Mr. Raymond Oliver took the affirmative side; Mr. G. Thesiger the negative. The following members having spoken, viz., Messrs. John F. Chadwick, W. M. Pleadwell, H. Malone, C. F. S. Spurrell, W. S. Jones, H. Shanly, and the opener having replied, the motion was put and lost by one vote. There were twenty-four members and four visitors present.

## United Law Society.

A meeting of the Society was held in the Middle Temple Common Room, on Monday, the 31st ult., Mr. F. W. Yates in the chair. Mr. Herbert Shanly opened: "That, in the opinion of this House, lawyers should be allowed to advertise." Mr. W. R. Hornby Steer replied. Messrs. S. E. Redfern, Guedalla, Ashley, Duveen, and S. A. Redfern having spoken, and the opener having replied, the motion was put before the House and lost by eight votes.

# Rules and Orders.

THE COSTS OF POOR PRISONERS' DEFENCE REGULATIONS, 1927, DATED JUNE 15, 1927, MADE BY THE SECRETARY OF STATE IN PURSUANCE OF SECTION 5 OF THE COSTS IN CRIMINAL CASES ACT, 1908 (8 EDW. 7. c. 15).

In pursuance of Section 5 of the Costs in Criminal Cases Act, 1908,(*) I hereby make the following Regulations regarding the rates and scales of payment to Solicitor and Counsel, and the cost of a copy of the depositions, for the defence of a prisoner in respect of whom a certificate has been given that he ought to have legal aid under the Poor Prisoners' Defence Act, 1903(†):—

1. There may be allowed to the solicitor a fee not exceeding £2 2s. 0d., provided that the presiding Judge, after the conclusion of the trial, may, if he think fit, certify that the case was one of exceptional length or difficulty, and thereupon the fee may be increased to such sum as he may direct, but not in any case exceeding £5, provided also that while the Solicitors' Remuneration Act General Order, 1919,(‡) continues in force, these fees may be increased by 33⅓ per centum.

In addition to such fee, the solicitor may be allowed travelling expenses actually and necessarily incurred by himself and his clerk on the scale applicable to the travelling expenses of ordinary witnesses for a prosecution and also, subject to taxation thereof, any other out of pocket expenses actually and reasonably incurred.

2. There may be allowed to counsel a fee not exceeding £3 5s. 6d., provided that the presiding Judge after the conclusion of the trial, may, if he think fit and the trial has lasted more than one full day, certify that the case was one of exceptional length or difficulty, and thereupon the fee may be increased to such sum not exceeding £11 0s. 0d. as he may direct.

3. There may be allowed to the clerk to the Justices or other person by whom a copy of the depositions is supplied to the prisoner's solicitor payment for the same at the rate of three halfpence per folio of 90 words.

4. In these Regulations the term "presiding Judge" includes a Recorder and a Chairman of Quarter Sessions or their deputies.

5.—(1) These Regulations may be cited as the Costs of Poor Prisoners' Defence Regulations, 1927.

(2) These Regulations shall come into operation on the 1st July, 1927.

(3) The Regulations dated the 30th December, 1903,(‖) made in pursuance of Section 1 (2) of the Poor Prisoners' Defence Act, 1903, are hereby revoked.

Given under my hand at Whitehall this 15th day of June, 1927.

*W. Joynson-Hicks,*
One of His Majesty's Principal Secretaries of State.

(*) 8 E. 7. c. 15. (†) 3 E. 7. c. 38. (‡) S.R. & O., 1919 (No. 1878) II p. 461. (‖) S.R. & O, Rev., 1904, IV, Criminal Procedure, E., p. 6 (1903, No. 1150).

THE COUNTY COURT (NO. 1) RULES, 1927. DATED JULY 18, 1927.

1. These Rules may be cited as the County Court (No. 1) Rules, 1927, and shall be read and construed with the County Court Rules, 1903, (*) as amended.

An Order and Rule referred to by number in these Rules means the Order and Rule so numbered in the County Court Rules, 1903, as amended. The Appendix referred to in these Rules is the Appendix to the County Court Rules, 1903, as amended.

The County Court Rules, 1903, as amended, shall have effect as further amended by these Rules.

2. The proviso in paragraph (1) of Rule 18 of Order VII shall be omitted and the following proviso shall be substituted therefor:—

"Provided that where a defendant so living or serving is a commissioned or warrant officer of H.M. Navy, and the Registrar is satisfied that the ship or vessel is within the district of some specified County Court, the summons may be served by sending it by registered post addressed to the defendant on board the ship or vessel; and in any such case the provisions of Rule 2 of Order LIV relating to service by post shall apply."

3. In paragraph (6) (*b*) of Rule 9 of Order XII, after the words "shall be struck out," the following words shall be inserted:—

"and the plaintiff may be ordered to pay the costs of the defendant, such costs to be assessed by the Registrar."

4. In paragraph (1) of Rule 28 of Order XXV the word "twenty-four" shall be substituted for the word "four."

5. At the end of paragraph (3) of Rule 1 of Order XXXIII, after the words "the last preceding paragraph," the following provisoes shall be inserted:—

"Provided that—

(*a*) where it appears that the plaintiff (or the defendant, where only a counterclaim is remitted) does not reside in England or Wales, the action shall not, unless the Judge otherwise orders, be entered for trial unless and until security for costs, by deposit of money or otherwise, has been given to the satisfaction of the Registrar, and

(*b*) an undertaking by a solicitor according to the form in the Appendix to be responsible for the costs shall be sufficient, and the provisions of Rule 10 of Order V shall apply."

6. In Form 91 in Part I of the Appendix, after the words "will be struck out" the following words shall be inserted:—

"and you may be ordered to pay the defendant's costs."

7. In paragraph (2) of Form 91A in Part I of the Appendix, after the words "struck out" the following words shall be inserted:—

"and your costs have been allowed at £ ."

We, the undersigned persons appointed by the Lord Chancellor pursuant to section one hundred and sixty-four of the County Courts Act, 1888,(†) and section twenty-four of the County Courts Act, 1919,(‡) to frame Rules and Orders for regulating the practice of the Court and forms of proceedings therein, having by virtue of the powers vested in us in this behalf framed the foregoing Rules, do hereby certify the same under our hands and submit them to the Lord Chancellor accordingly.

*W. M. Cann.* *T. Mordaunt Snagge.*
*J. W. McCarthy.* *Arthur L. Lowe.*
*Hugh Sturges.* *A. H. Coley.*

Approved by the Rules Committee of the Supreme Court.

*Claud Schuster,*
Secretary.

I allow these Rules, which shall come into force on the 1st day of September, 1927.

Dated the 18th day of July, 1927.

*Cave,* C.

(*) S.R. & O. Rev., 1904, III, County Court, E., p. 89 (1903, No. 629).
(†) 51–2 V. c. 43. (‡) 9–10 G. 5. c. 73.

## RAILWAY RATES TRIBUNAL.

Terms of settlement with the Great Western Railway were announced at the sitting on Tuesday, the 25th ult., of the Railway Rates Tribunal, at the Law Courts, in the application of the Ebbw Vale Steel, Iron and Coal Company, Limited, for an order continuing special tolls and charges on the Monmouthshire section of the G.W.R. The court made an order approving the withdrawal of the application. A similar arrangement with the Monmouth Freighters' Committee was announced and their application was withdrawn.

The attention of the Legal Profession is called to the fact that the PHŒNIX ASSURANCE COMPANY Ltd., Phœnix House, King William Street, London, E.C.4 (transacting ALL CLASSES OF INSURANCE BUSINESS), invites proposals for Fidelity Guarantee and Court Bonds, Loans on Reversions and Life Interests. Branch Offices at Byron House, 7, St. James's Street, S.W.1; 187, Fleet Street, E.C.4; 20-22, Lincoln's Inn Fields, W.C.2; and throughout the country.

# Legal Notes and News.

## Professional Announcement.

Mr. L. N. JONAS, solicitor, formerly of No. 5, Sandland-street, Bedford-row, announces that on and after Monday, the 31st October, the address of his offices will be "Jessel-chambers, 88/90, Chancery-lane, W.C.2." His telephone number (Chancery 7828) will remain unchanged.

## Professional Partnership Dissolved.

CECIL SOMERS-CLARKE and ROBERT ARTHUR DENDY, solicitors, Brighton, Sussex (Howlett & Clarke), by mutual consent as from 1st April, 1927. The business will be carried on in future by R. A. Dendy and E. Hugh Somers-Clarke.

### MAGISTRATE AND CRIMINAL JUSTICE ACT.

During the hearing of a case of fraudulent conversion of money at the Marylebone Police Court on Saturday last, the magistrate's clerk pointed out that that was the one offence which the Criminal Justice Act did not empower magistrates to deal with. "It is extraordinary," said Mr. Hay Halkett, who added that he was at a loss to know why it was done.

### THE BAR FINAL EXAMINATION.

Amongst the five names in Class 1 of the Bar Final Examination, we observe that of Mr. John Cherry, to whom a certificate of Honour has been awarded. Mr. Cherry is the son of Sir Benjamin L. Cherry, LL.B., one of the Conveyancing Counsel to the Court, well known as an authority on the Law of Property Acts.

### THE ADEQUACY OF PARLIAMENTARY GOVERNMENT.

"The Adequacy of Parliamentary Government to meet the needs of the Age," is the subject selected by The Right Hon. H. A. L. Fisher, LL.D., D.Litt., F.R.S. (Warden of New College, Oxford), for his Presidential Address, to be delivered at University College, Gower-street, W.C., on Tuesday, 29th November, at 8.30. The Right Hon. Lord Hanworth, Master of the Rolls, will take the chair at 8.30. Mr. M. N. Clarke, at 4, Stone-buildings, Lincoln's Inn, will be glad to supply tickets on application.

### THE LATE MARQUESS OF CAMBRIDGE.

We note that Mr. E. L. Rowcliffe (of the firm of Gregory, Rowcliffe & Co., 1 Bedford-row, W.C.), solicitor to the Marquess of Cambridge, was among those present at the funeral service in St. George's Chapel, Windsor, on Saturday last, the 29th ult.

The Nursing Associations co-operating with the Nursing Service of the Mutual Property Insurance Company Limited are making over 1,000 nursing visits per month to the policy-holders of the "M.P.," who receive this benefit free of charge. The total number of visits made since the introduction into this country for the first time of this service by the Company exceed 24,000.

# Court Papers.

## Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

| Date. | Emergency Rota. | Appeal Court No. 1. | Mr. Justice Eve. | Mr. Justice Romer. |
|---|---|---|---|---|
| Monday Nov. 7 | Mr. Ritchie | Mr. More | Mr. Ritchie | Mr. Synge |
| Tuesday .. 8 | Synge | Jolly | Synge | Ritchie |
| Wednesday 9 | Hicks Beach | Ritchie | Ritchie | Synge |
| Thursday . 10 | Bloxam | Synge | Synge | Ritchie |
| Friday .... 11 | More | Hicks Beach | Ritchie | Synge |
| Saturday .. 12 | Jolly | Bloxam | Synge | Ritchie |
| | Mr. Justice Astbury. | Mr. Justice Clauson. | Mr. Justice Russell. | Mr. Justice Tomlin. |
| Monday Nov. 7 | Mr. Jolly | Mr. More | Hicks Beach | Mr. Bloxam |
| Tuesday .. 8 | More | Jolly | Bloxam | Hicks Beach |
| Wednesday 9 | Jolly | More | Hicks Beach | Bloxam |
| Thursday 10 | More | Jolly | Bloxam | Hicks Beach |
| Friday .... 11 | Jolly | More | Hicks Beach | Bloxam |
| Saturday .. 12 | More | Jolly | Bloxam | Hicks Beach |

**VALUATIONS FOR INSURANCE.**—It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

# Stock Exchange Prices of certain Trustee Securities.

Bank Rate 4½%. Next London Stock Exchange Settlement Thursday, 10th November, 1927.

| | Middle Price 2nd Nov. | Interest Yield. | Yield with Redemption. |
|---|---|---|---|
| **English Government Securities.** | | £ s. d. | £ s. d. |
| Consols 4% 1957 or after | 85⅜ | 4 14 0 | — |
| Consols 2½% | 55¼ | 4 10 0 | — |
| War Loan 5% 1929-47 | 100½ | 4 19 6 | 4 18 6 |
| War Loan 4½% 1925-45 | 96 | 4 14 0 | 4 16 6 |
| War Loan 4% (Tax free) 1929-42 | 100¼ | 4 0 0 | 4 0 0 |
| Funding 4% Loan 1960-90 | 85¾ | 4 13 0 | 4 14 0 |
| Victory 4% Bonds (available for Estate Duty at par) Average life 35 years | 93¾ | 4 5 6 | 4 7 0 |
| Conversion 4½% Loan 1940-44 | 97¾ | 4 12 0 | 4 15 6 |
| Conversion 3½% Loan 1961 | 75½ | 4 13 0 | — |
| Local Loans 3% Stock 1921 or after | 63¼ | 4 15 6 | — |
| Bank Stock | 257 | 4 13 0 | — |
| India 4½% 1950-55 | 92½ | 4 17 0 | 4 18 6 |
| India 3½% | 71 | 4 18 6 | — |
| India 3% | 61 | 4 18 0 | — |
| Sudan 4½% 1939-73 | 94½ | 4 15 0 | 4 17 0 |
| Sudan 4% 1974 | 83½ | 4 16 0 | 4 18 0 |
| Transvaal Government 3% Guaranteed 1925-53 (Estimated life 19 years) | 80½ | 3 15 0 | 4 12 6 |
| **Colonial Securities.** | | | |
| Canada 3% 1938 | 85 | 3 11 6 | 4 18 0 |
| Cape of Good Hope 4% 1916-36 | 92⅞ | 4 6 0 | 5 0 6 |
| Cape of Good Hope 3½% 1929-49 | 81¼ | 4 6 0 | 5 0 0 |
| Commonwealth of Australia 5% 1945-75 | 100 | 5 0 0 | 5 2 6 |
| Gold Coast 4½% 1956 | 95 | 4 14 6 | 4 17 6 |
| Jamaica 4½% 1941-71 | 92½ | 4 18 0 | 4 18 6 |
| Natal 4% 1937 | 92¼ | 4 7 0 | 5 0 0 |
| New South Wales 4½% 1935-45 | 92 | 4 17 6 | 5 7 0 |
| New South Wales 5% 1945-65 | 98xd | 5 2 0 | 5 3 6 |
| New Zealand 4½% 1945 | 97 | 4 12 6 | 4 17 6 |
| New Zealand 5% 1946 | 103 | 4 17 0 | 4 16 6 |
| Queensland 5% 1940-60 | 99 | 5 1 0 | 5 3 0 |
| South Africa 5% 1945-75 | 101⅜ | 4 19 0 | 4 18 6 |
| S. Australia 5% 1945-75 | 99¾ | 5 0 0 | 5 0 0 |
| Tasmania 5% 1945-75 | 100 | 5 0 0 | 5 0 0 |
| Victoria 5% 1945-75 | 99½ | 5 0 6 | 5 0 0 |
| W. Australia 5% 1945-75 | 99¾ | 5 0 0 | 5 2 0 |
| **Corporation Stocks.** | | | |
| Birmingham 3% on or after 1947 or at option of Corpn. | 64 | 4 13 6 | — |
| Birmingham 5% 1946-56 | 103¼ | 4 17 0 | 4 17 0 |
| Cardiff 5% 1945-65 | 102 | 4 18 6 | 4 18 0 |
| Croydon 3% 1940-60 | 68¼ | 4 8 6 | 5 0 0 |
| Hull 3½% 1925-55 | 78 | 4 9 6 | 5 0 0 |
| Liverpool 3½% redeemable at option of Corpn. | 74 | 4 14 6 | — |
| Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn. | 53 | 4 14 0 | — |
| Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn. | 63 | 4 15 0 | — |
| Manchester 3% on or after 1941 | 63 | 4 14 6 | — |
| Metropolitan Water Board 3% 'A' 1963-2003 | 63½ | 4 14 6 | 4 17 0 |
| Metropolitan Water Board 3% 'B' 1934-2003 | 64½ | 4 13 0 | 4 15 6 |
| Middlesex C. C. 3½% 1927-47 | 83 | 4 5 0 | 4 17 0 |
| Newcastle 3½% Irredeemable | 73 | 4 16 0 | — |
| Nottingham 3% Irredeemable | 62½ | 4 16 0 | — |
| Stockton 5% 1946-66 | 102 | 4 18 6 | 4 19 0 |
| Wolverhampton 5% 1946-56 | 101 | 4 19 0 | 5 0 0 |
| **English Railway Prior Charges.** | | | |
| Gt. Western Rly. 4% Debenture | 83¼ | 4 16 0 | — |
| Gt. Western Rly. 5% Rent Charge | 101 | 4 19 0 | — |
| Gt. Western Rly. 5% Preference | 96¼ | 5 4 0 | — |
| L. North Eastern Rly. 4% Debenture | 80 | 5 0 0 | — |
| L. North Eastern Rly. 4% Guaranteed | 75 | 5 6 6 | — |
| L. North Eastern Rly. 4% 1st Preference | 67 | 5 19 6 | — |
| L. Mid. & Scot. Rly. 4% Debenture | 82 | 4 17 6 | — |
| L. Mid. & Scot. Rly. 4% Guaranteed | 80 | 5 0 0 | — |
| L. Mid. & Scot. Rly. 4% Preference | 74 | 5 8 0 | — |
| Southern Railway 4% Debenture | 82 | 4 17 6 | — |
| Southern Railway 5% Guaranteed | 98 | 5 2 0 | — |
| Southern Railway 5% Preference | 89 | 5 12 0 | — |

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NEXT OF KIN Wanted.—Any persons claiming to be or to be able to give information as to the NEXT OF KIN of the late WILLIAM EASTON, Merchant, of 17, St. Vincent-lane, Glasgow, who resided sometime at 16, Buckingham-terrace, Hillhead, Glasgow, afterwards at 1, Kersland-street, Hillhead, aforesaid, and died at the last-mentioned address on 19th May, 1888, will please COMMUNICATE with Messrs. R. and J. M. Hill Brown & Co., Writers, 41, West George-street, Glasgow, C.2, the Law Agents for Mr. Easton's Trustees.

RE OTTO HUGO VON STOLBERG, deceased.—Anyone holding Documents or Papers, will they kindly communicate?—Write "X," Box 798, Solicitors' Journal, 94-97, Fetter-lane, E.C.4.

JOSEPH JOHN JACKSON, deceased.—Any person having knowledge of a Will of the abovenamed deceased, late of "Glenview," Hereford, Chemist, who died on the 4th day of June, 1927, is requested to communicate forthwith with either of the undersigned: T. A. Matthews, Solicitor, 6 & 7 King Street, Hereford; Timbrell, Deighton & Nichols, Solicitors, 90 Cannon-street, London, E.C.4.

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| Do. .. | 4 ,, | £200 ,, |
| Do. (off) .. | 2 floors | £250 ,, |
| GOUGH-SQUARE, E.C. .. | 5 ,, | £225 ,, |
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